THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

(AS ALTERED TO 1ST JULY, 1936),

AND THE ACTS ALTERING THE CONSTITUTION.

3849

WITH NOTES, TABLES, INDEX AND APPENDIXES.

Compiled and Annotated

by

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and Parliamentary Draftsman.

By Authority:

L. F JOHNSTON, Commonwealth Government Printer, Canberra 3014.

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PREFACE.

The object which has been kept in view in the preparation of this publication is the production of a volume, of convenient size, containing material likely to be of use in the interpretation of the Australian Constitution, and other material, relating to the Constitution, which is of historical interest or may be useful for reference purposes. Accordingly, there have been included, not only notes of the various Constitutional cases decided by the Courts since 1901, but some general notes containing information concerning the Constitution—such information, for instance, as details of the voting on the Constitution Bill in the various States (then colonies) prior to Federation, the names and terms of office of the various Governors-General and Administrations, the dates of the various sessions of the Parliament of the Commonwealth, particulars concerning the establishment of the various Departments of State of the Commonwealth, and concerning the changes of name and arrangement of those Departments, etc. Certain additional information, referred to hereunder, is given in the five Appendixes.

In the Notes of Cases, an attempt has been made to connect the notes as closely as possible with the particular portion of the section of the Constitution to which each case relates. This has involved, in the case of certain sections divided into paragraphs or placita which have been frequently under review by the Courts, e.g., sections 51, 52, 73, 75 and 76, the interpolation of notes between the various placita. While the adoption of this system has had the disadvantage of causing certain sections to be spread over a number of pages-section fifty-one, for instance, covers, with its notes, twenty-seven pages-it is thought that the balance of convenience is in favour of the adoption of this system as making The cases included in the notes to each the notes more readily accessible. section or placitum have generally been arranged chronologically, the fact of an earlier case being expressly overruled by a later case being generally indicated by a brief note following the reference to the earlier case. The decisions on certain of the placita of section 51-e.g., (i) trade and commerce, (ii) taxation, and (xxxv) conciliation and arbitration—have been so numerous that it has been found necessary to arrange under sub-headings the notes of cases on those placita.

In the notes of cases, dicta, as well as actual decisions, have been included, the former being usually introduced by such words as "As to whether", or by the word "Per" followed by the name of the Justice or Judge. Where the name of a particular Justice or Judge is mentioned, the office held by him at the time of the decision or dictum is indicated, notwithstanding that he may subsequently have held a higher judicial office.

As a general rule, where a case has been the subject of an appeal, only the decision of the final Court of Appeal has been noted. An exception has been made where cases have been taken on appeal from the High Court to the Privy Council, both decisions in such cases being noted.

Certain supplementary notes of cases which relate to general principles of interpretation of the Constitution have been included at the end of the Constitution.

Perhaps one word of warning may be uttered with regard to the use of the notes of cases.

As will be seen from the supplementary notes of cases (pp. 107-110), the principle of implied prohibition, laid down by the High Court as originally constituted, was departed from by the High Court in 1920 in the Engineers' case. In that case the High Court expressly overruled certain cases in which

the principle of implied prohibition had been followed. The fact of these cases having been overruled is indicated in the notes on those cases; but other cases depending on the principle of implied prohibition were not expressly overruled. The notes on those other cases should therefore be read in the light of the principles of interpretation laid down in the Engineers' Case This case was, later, referred to by Isaacs, J. (afterwards C.J.), in Ex parte Nelson (No. 1), (1928) 42 C.L.R. 209, at p. 228, as "our starting-point for constitutional interpretation".

In Appendix A have been included, for historical and reference purposes, the Federal Council of Australasia Act, 1885 (from which a number of the legislative powers of the Commonwealth have been copied), and such of the Acts of the Federal Council as are still in force. These Acts have been included for the reason that they are not now readily accessible elsewhere.

Appendix B contains the Acts passed by the State Parliaments referring powers to the Parliament of the Commonwealth. Under section 51 (xxxvii) of the Constitution the Parliament of the Commonwealth has power to legislate with respect to matters so referred. Some of the State Acts, it will be noted, are not at present in force.

Appendix C contains various agreements between the Commonwealth and the States relating to the public debts of the States. Under section 105A of the Constitution it is provided that every agreement with respect to the public debts of the States, which is made in pursuance of that section, is binding upon the Commonwealth and the States concerned, notwithstanding anything in the Commonwealth or State Constitutions or laws; and the Parliament of the Commonwealth is empowered to make laws for the carrying out by the parties thereto of any such agreement.

Appendix D contains copies of the fifty-two Bills for the alteration of the Constitution which have been introduced into the Parliament of the Commonwealth between 1901 and 1935 (inclusive). Of these, sixteen have been submitted to the electors, and three have been passed

The footnotes to each Bill include the Parliamentary history of the Bill, and, in the case of those which have been submitted to the electors, details of the voting thereon.

Appendix E contains the Statute of Westminster, and the statutory provisions therein referred to. Although the Statute had not, at the date of the preparation of this volume, been adopted by the Commonwealth, the Prime Minister of the Commonwealth had announced (Hansard, 30th April, 1936, p.1042) that the Commonwealth Government intended to introduce into Parliament a Bill for its adoption. Notice of a motion for leave to introduce the Bill was given in the House of Representatives on 19th November, 1936.

The Table of Commonwealth legislation, contained on pages vii to xlvii inclusive, provides a ready means of reference to the legislation of the Commonwealth in relation to each provision of the Constitution with respect to which the Parliament has made laws. This table is taken from the Sessional Volumes of Commonwealth Acts.

References in this publication to "the date of the preparation of this volume" should be read as references to 1st July, 1936.

In conclusion, I desire to express appreciation of the courtesy of the proprietors of the various Law Reports in permitting the use, where possible, of the head-notes to cases appearing in Reports which have been cited.

GEO. S. KNOWLES.

Canberra, 20th November, 1936.

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ADDENDA ET CORRIGENDA.

- Page ix.—In second column, opposite section 24, "Northern Territory Representation Act 1922–1925" should be in roman type (not italics).
- Page x.—In second column, opposite section 34, "Commonwealth Electoral Act 1918–1934" should be in roman type (not italics).
- Page x.—In first column, after "47" omit "83"; insert "48".
- Page x.—In third column, opposite section 83, omit "No. 25, 1925"; insert "No. 21, 1925."
- Page x1.—At the foot of the page omit the words "(judgment delivered 10th November, 1936)", insert—
 (1936) 55 C L.R. 608; 24 A.L R. 482.
- Page xii.—Insert an asterisk in the second column before each of the following Acts .—
 Dried Fruits Act 1928–1935.

Dairy Produce Act 1933-1935.

Wheat and Wheat Products Act 1935.

- Page xii.—At the foot of the page insert the following note .—
 - * The Dried Fruits Act 1928–1935 was declared by the Privy Council to be invalid, as contravening s 92 of the Constitution. James v Commonwealth, 1936 A.C. 578; 55 C.L.R. 1; 42 A.L.R. 333 The decision also affects the validity of the Dairy Produce Act 1933–1935 and the Wheat and Wheat Products Act 1935.
- Pages xiv and xv.—In third column, after "No. 45, 1935" (wherever occurring) insert "No 61, 1935".
- Page xv.—In third column, after "No. 9, 1935" msert "No 61, 1935".
- Page xxxv.—In third column, after "No. 35, 1935" (wherever occurring) insert "No. 36, 1935".
- Pages xxxix and xlı.—In third column, after "No. 45, 1935" insert "No. 61, 1935".
- Page xlii.—In second column, opposite section 85, omit "Lands Acquisition Act 1906-1916", insert "Lands Acquisition Act 1906-1934".

In third column, after "No 12, 1916" insert-

" No. 5, 1932 No. 45, 1934."

- Page xlm.—In second and third columns, after the entries relating to "Wheat Growers Relief Act 1934-1935" insert—
 - "Loan (Farmers' Debt Adjustment) Act 1935 | No. 23, 1935"...

In second column, after "Primary Producers" insert "Relief".

- Pages lix, lxxx, and c.—In the entries relating to the case of R. v. Burgess: Ex parte Henry, omit—
 - "(High Court judgment, 10th November, 1936)"; insert-
 - " (1936) 55 C.L.R. 608; 24 A.L.R. 482."

- Page 43, line 63 of text.—Before the letter "n" at the commencement of the line insert the letter "i".
- Page 58.—In the brackets following the word "establishment" at the end of section 69, insert the letter "e".
- Page 59, fifth last line.—Omit "High". Insert "High".
- Page 101.—Before the word "Held" at the commencement of the third paragraph of the notes of cases on section 116, insert "(b)".
- Page 112.—In second line of third note omit "delcaration"—insert "declaration".
- Page 213.—Transpose the third and fourth lines of the note immediately following Clause 2 of the Bill.
- Page 296.—Omit from the column headed "Page" the figures "124"—insert "105".

TABLE OF COMMONWEALTH LEGISLATION PASSED FROM 1901 TO 1935 IN RELATION TO THE SEVERAL PROVISIONS OF THE CONSTITUTION.*

Note.—This Table is disigned to group, under the several provisions of the Constitu-tion, the enactments of the Federal Parliament passed by virtue of, or in relation to, these provisions

Its object is to facilitate reference to all the Commonwealth legislation relating to any particular provision of the Constitution, so that it can be readily ascertained whether and to what extent the legislative power of the Commonwealth has been exercised in relation to that provision or to its subject-matter, and (in the case of those provisions of the Constitution which are expressed to have effect "until the Parliament otherwise provides") whether any other provision has been made.

The Table does not purport to be either authoritative or exhaustive. Enactments may incidentally derive support from, or relate to, other provisions of the Constitution than those with which they are primarily connected; but no attempt has been made to tabulate other than direct and obvious relations. For instance, almost every enactment made by virtue of a specific legislative power may derive additional support from section 51 (xxxix); but the only enactments which have been tabulated under that provision are those in which the incidental element appears to preponderate. are those in which the incidental element appears to preponderate.

Short titles of Acts not now in force are printed in italics.

State Acts passed in pursuance of powers conferred by certain sections of the Constitution are enumerated in footnotes.

Section of	Commonwealth Ac	t	
Constitution	Short Title.	Reference	Sections of Act
Covering clause 7	Repeal of Federal Council Acts. Service and Execution of Process Act 1901-1934	(a)	2
Section 8	THE SENATE Qualification of Electors.		
	Commonwealth Franchise Act 1902 Commonwealth Electoral (War time) Act { 1917-1919 Commonwealth Electoral Act 1918-1934 Commonwealth Electoral (War-time) Repeal Act 1920	No. 8, 1902 No. 8, 1917 No. 29, 1919 (b) No 44, 1920	} 39

⁽a) The Service and Execution of Process Act 1901–1934 comprises Act No. 11, 1901, as amended by Acts No. 5, 1905, No. 18, 1912, No 29, 1918, No 27, 1922, No. 26, 1924, No 14, 1928, No 45, 1931, and No. 45, 1934

(b) The Commonwealth Electoral Act 1918–1934 comprises Act No 27, 1918, as amended by Acts No 31, 1919, No 14, 1921, No 14, 1922, No 10, 1924, No. 20, 1925, No 17, 1928, No 2, 1929, and No 9, 1934. *NoTE.—This table is taken from the Sessional Volumes of Commonwealth Acts printed and published by the Commonwealth Government Printer, Canberra

	Commonwealth Act.		
Section of Constitution.	Short Title.	Reference	Sections of Act.
Section 9*	Elections of Senators. Method of Choosing Senators.		
	Commonwealth Electoral Act 1902-1911 Senate Elections Act 1903-1922 Commonwealth Electoral (War-time) Act 1917-1919 Commonwealth Electoral Act 1918-1934 Commonwealth Electoral (War-time) Repeal Act 1920	(a) No. 2, 1903 No. 22, 1922 No. 8, 1917 No. 29, 1919 (b) No. 44, 1920	}
12	Writs for Senate Elections. Commonwealth Electoral Act 1902–1911 Senate Elections Act 1903–1922 Commonwealth Electoral Act 1918–1934	(a) No. 2, 1903 No 22, 1922 (b)	86–90 7 59–67
13	Rotation of Senators. Constitution Alteration (Senate Elections) 1908	No. 1, 1907	
15	Casual Vacancies. Commonwealth Electoral Act 1902–1911 Senate Electrons Act 1903–1922 Commonwealth Electoral Act 1918–1934	(a) No. 2, 1903 No. 22, 1922 (b)	192
16	Qualifications of Senators. Commonwealth Franchise Act 1902 Commonwealth Electoral Act 1902-1911	No. 8, 1902	95, 96, 206a

⁽a) The Commonwealth Electoral Act 1902-1911 comprises Act No 19, 1902, as amended by Acts No. 9, 1903, No. 26, 1905, No 18, 1906, No. 10, 1907, No 19, 1909, and No 17, 1911. The Commonwealth Electoral Act 1902-1911 has been repealed by the Commonwealth Electoral Act 1918-1934 See Gazettes, 23rd November, 1918, p 2257, 13th March, 1919, p 401, 16th December, 1920, p. 2277 and 9th August, 1934, p. 1351

(b) See footnote (b), supra p, vii

^{*} The following State Acts have been passed in pursuance of the powers conferred by section 9 .-

State.	Short Title.	Reference Number.
New South Wales Victoria Queensland	Federal Elections Act, 1900 . Senators' Elections Act, 1903 Senators' Election Act, 1903 Senators' Election Act, 1912 Federal Elections Act 1900 Senate Elections (Times and Places) Act 1928 The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900	No. 73, 1900 No. 9, 1903 No. 75, 1912 No. 1715 No. 3769 64 Vic. No. 25
South Australia Western Australia Tasmania	The Election of Senators Act of 1903 The Election of Senators Act, 1903 The Federal Elections Act, 1900 The Election of Senators Act, 1900 Senate Elections Act 1935	3 Ed VII. No 6 No. 834 No 11, 1903 No 27, 1913 64 Vic No. 59 3 Ed. VII No. 5 26 Geo V No. 3

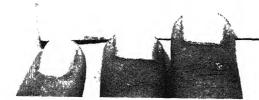


Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	ct.	
Constitution.	Short Title.	Reference	Sections of Act.
Section 16	Qualifications of Senators—continued.	, ,	20
	Commonwealth Electoral Act 1918–1934	(a)	69
	THE HOUSE OF REPRESEN- TATIVES.		
24	Determination of Number of Members.		
	Representation Act 1905 Representation Act 1916 Representation Act 1930 Northern Territory Representation Act 1922-1925	No. 11, 1905 No. 15, 1916 No. 73, 1930 No. 18, 1922 No. 21, 1925	} 3
29*	Electoral Divisions.		
	Commonwealth Electoral Act 1902–1911 Electoral Valudating Act 1906 Commonwealth Electoral Act 1918–1934 Northern Territory Representation Act { 1922–1925	No. 12, 1906 (a) No. 18, 1922 No. 21, 1925	12–26 3, 15–28 7
30	Qualifications of Electors.		
	Commonwealth Franchise Act 1902 Commonwealth Electoral (War-time) Act { 1917-1919 Commonwealth Electoral Act 1918-1934 Commonwealth Electoral (War-time) Repeal Act 1920	No. 8, 1902 No. 8, 1917 No. 29, 1919 (a) No. 44, 1920	39
	Northern Territory Representation Act $\left\{ \begin{array}{c} 1922-1925 \end{array} \right.$	No. 18, 1922 No. 21, 1925	} 7
31	Elections of Members.		
	Commonwealth Electoral Act 1902–1911 Commonwealth Electoral (War-time) Act { 1917–1919 Commonwealth Electoral Act 1918–1934 Commonwealth Electoral (War-time) Repeal Act 1920	No. 8, 1917 No. 29, 1919 (a) No. 44, 1920	}
	Northern Territory Representation Act { 1922–1925	No. 18, 1922 No. 21, 1925	8

(a) See footnote (b), supra p. vii.

(b) See footnote (a), supra p vni.

^{*} The following State Acts have been passed in pursuance of the powers conferred by section 29:-

State.		Short Title.	Reference Number.
New South Wales Victoria	::	Federal Electrons Act, 1900	No 73, 1900 No. 1667
Queensland .	•	The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900	64 Vic. No. 25
Western Australia	••	Federal House of Representatives Western Australian Electorates Act, 1900	64 Vic. No. 6

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Deutien of	Commonwealth A	rt	
Section of Constitution	Short Title	Reference	Sections of Act
Section 32 33	Writs for General Elections. Writs for Vacancies.		
	Commonwealth Electoral Act 1902–1911 Commonwealth Electoral Act 1918–1934	(a) (b)	86-89, 91-93 59-67, 141, 144
	Northern Territory Representation Act { 1922–1925	No. 18, 1922 No. 21, 1925	} 6
34	Qualifications of Members. Commonwealth Franchise Act 1902 Commonwealth Electoral Act 1902–1911 Commonwealth Electoral Act 1918–1934 Northern Territory Representation Act 1922–1925	No. 8, 1902 (a) (b) No. 18, 1922 No 21, 1925	95, 96, 2064 69 }
41	BOTH HOUSES OF THE PARLIAMENT. Right of State Electors. Commonwealth Franchise Act 1902 Commonwealth Electoral Act 1918-1934	No 8, 1902 (b)	4 39 (5)
47	Questions of Qualifications, Vacancies, or Disputed Elections. Commonwealth Electoral Act 1902-1911 Commonwealth Electoral Act 1918-1934	(a) (b)	192–206г 183–208
	Senate Elections Act 1903-1922 {	No. 2, 1903	} 11
83	Allowances to Members. Parliamentary Allowances Act 1902 Parliamentary Allowances Act 1907 Parliamentary Allowances Act 1920— 1928 Northern Territory Representation Act 1922–1925	No. 22, 1922 No. 20, 1902 No. 5, 1907 No. 12, 1920 No. 9, 1928 No. 18, 1922 No. 25, 1925	} 6
49	Privileges of Parliament.		
	Parliamentary Papers Act 1908-1935 {	No. 16, 1908 No. 64, 1935	}
51 (1.)	POWERS OF THE PARLIAMENT. Trade and Commerce—External and Inter-State.	2.00	,
	Customs Act 1901-1935	(c) No. 14, 1904 No. 10, 1905	
T. Y	Commerce (Trade Descriptions) Act 1905-1933	No. 16, 1905 No. 37, 1926 No. 15, 1930 No. 13, 1933	}
	Australian Industries Preservation Act 1906-1930	(d)	,

⁽a) See footnote (u) supra p. viii.
(b) See footnote (b), supra p. viii.
(c) The Customs Act 1'01-1935 comprises Act No. 6, 1901, as amended by Acts No. 36, 1910, No. 19, 1914, No. 10, 1916, No. 41, 1920, No. 19, 1922, No. 12, 1923, No. 22, 1925, No. 6, 1930, No. 7, 1934, No. 45, 1934, and No. 7, 1935.
(d) The Australian Industries Preservation Act 1906-1930 comprises Act No. 9, 1906, as amended by Acts No. 5, 1908, No. 26, 1909, No. 29, 1910, and No. 77, 1930.

Sections 5 and 8 of the Australian Industries Preservation Act 1906-1907 were held by the High Court to be invalid. Huddart Parker & Co. Pty. Ltd. v. Moorehead, 8 C.L.R. p. 330; 15 A L R. 241. These sections were subsequently repealed by the Act of 1910.

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

ř

0 41 4	Commonwealth Ac	t	
Section of Constitution	Short Title	Reference	Sections of Act
Section 51	Trade and Commerce—External and		
(1.)	Inter-State—continued.		
(/	Spirits Act 1906–1935	(a)	9
		No. 23, 1933	,
	Spirits Act 1933		
	Seamen's Compensation Act 1909	No. 29, 1909	
	Customs (Inter-State Accounts) Act 1910	No. 9, 1910	_
	Northern Territory Acceptance Act	No. 20, 1910	13*
	1910–1919	No. 24, 1919	15
		No. 27, 1910	1)
	37 13 77 1 (4.1	No. 19, 1926	11
	Northern Territory (Administration)	No 5, 1931	7, 8, 10
	Act 1910–1933	No 7, 1931	1 1, 0, 20
	0		را
	Seamen's Compensation Act 1911	No 13, 1911	_
		No 14, 1911	11
	Lighthouses Act 1911-1919 .	No 17, 1915	>
		No. 6, 1919]]
	Commonwealth Bank Act 1911-1932	(b)	7c, 7p
	Inter-State Commission Act 1912	No 33, 1912	1
	†Navigation Act 1912–1935	(c)	
	Norfolk Island Act 1913	No. 15, 1913	15
			10
	Meat Export Trade Commission Act 1914	No. 1, 1914	_
		No. 9, 1914	
	Trading with the Enemy Act 1914-1921	No 17, 1914	1
	Trading with the Entony 1100 to 11 1021	No 20, 1916	1 (
	(No. 23, 1921	[]
	Enemy Contracts Annulment Act 1915	No. 11, 1915	1
	1	No. 46, 1915	17
	River Murray Waters Act 1915-1934	No. 20, 1923	1
	Torver Mariay Wasons need 1516 1501	No. 11, 1934	1 (
	P. 4. 1 1 1000)
	Butter Agreement Act 1920	No 20, 1920	
	War Precautions Act Repeal Act 1920- 1934	(d)	3
	‡Air Navigation Act 1920	No. 50, 1920	
	Commonwealth Shipping Act 1923	No 3, 1923	
		No 38, 1924	1)
	Dairy Produce Export Control Act	No. 45, 1934	1 }
	1924-1935	No 70, 1935	11
	5	No. 40, 1924	13
	Daied Fruits Francet Control Act 1034	No. 46, 1930	1 1
	Dried Fruits Export Control Act 1924-		1 }
	1935	No. 45, 1934	1 1
	<u> </u>	No. 3, 1935	17
		No. 42, 1924	
	Export Guarantee Act 1924-1934	No. 4, 1925	1 >
		No. 45, 1934	
	Meat Industry Encouragement Act 1924	No. 55, 1924	1
	Sea-Carriage of Goods Act 1924 .	No. 22, 1924	
		(e)	8A1, 8AB
	Immigration Act 1901–1935	{ (e)	1 021, 040

[a) The Spirits Act 1906-1935 comprises Act No. 21, 1906, as amended by Acts No. 14, 1915, No. 35

[918, No. 6, 1923, No. 12, 1932, and No. 24, 1935

[b) See footnote (b), infra p. XX.

[c) The Navigation Act 1912-1935 comprises Act No. 4, 1913, as amended by Acts No. 32, 1919, No. 1, 1921, No. 8, 1925, No. 8, 1926, No. 49, 1934, and No. 30, 1935.

[d) The War Precautions Act Repeal Act 1920-1934 comprises Act No. 54, 1920, as amended by Acts No. 36, 1921, No. 39, 1922, No. 34, 1923, No. 23, 1928, and No. 45, 1934.

[e) See footnote (c), infra p XXVI

This section has been repealed, but a section in almost identical terms has been inserted in the Northern Territory (Administration) Act 1910-1933 (see s. 10)

† The Navigation Act 1912-1920 was declared by the High Court to be invalid in so far as it purports to prescribe rules of conduct in respect of ships engaged solely in the domestic trade and commerce of a State. See Newcastle and Hunter River Steamship Co. Ltd. v. Attorney-General for the Commonwealth, 29 C.L.R. 357; 27 A L.R. 373

Certain provisions of the Navigation Act 1912-1920 with respect to the discharge and engagement of seamen were held to be void for repugnancy to the Merchant Shipping Acts 1894 and 1908. See Union Steamship Co. of New Zealand Ltd. v. Commonwealth, 36 C.L.R. 180, 31 A.L. 269.

‡ The Air Navigation Act 1920, s. 4, was held by the High Court to be invalid in so far as it purported to give power to make regulations for the purpose of providing for the control of air navigation generally throughout the Commonwealth. See R. v. Burgess Ex. parts Henry, (judgment delivered 10th November, 1936).

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Commonwealth \ct			
Section of Constitution.	Short Title	Reference	Sections of Act
Section 51 (i.)	Trade and Commerce—External and Inter-State—continued.		
	Canned Fruits Export Control Act	No. 40, 1926 No. 47, 1930 No. 9, 1933 No. 45, 1934 No. 4, 1933	
	Northern Australia Act 1926 Crimes Act 1914–1932 Fresh Fruds Overseas Marketing Act 1927 Pearl-shell Overseas Marketing Act 1927	No. 16, 1926 (a) No. 22, 1927 No. 13, 1927	53, 57 301, 30k
	Dried Fruits Act 1928–1935	No. 11, 1928 No. 59, 1933 No. 5, 1935 No. 37, 1928	}
	Transport Workers Act 1928-1929 Wine Overseas Marketing Act 1929-	No 3, 1929 No 6, 1929 No. 48, 1930	}
	1934 Cotton Industries Bounty Act 1930- 1932	No. 45, 1934 No. 13, 1930 No. 17, 1932 No. 75, 1930	9
	Gold Bounty Act 1930-1934 Wheat Advances Act 1930	No. 15, 1930 No. 45, 1934 No. 78, 1930 No. 73, 1932	3, 14
	Routes Protection Act 1932 Colonial Light Dues Collection Act { 1932-1934 Colonial Light Dues (Rates) Act 1932. Colonial Light Dues Appropriation Act	No. 65, 1932 No. 15, 1934 No. 66, 1932 No. 67, 1932	}
	1932 Queensland Meat Inspection Agreement Act 1932	No. 15, 1932	
	United Kingdom and Australia Trade Agreement Act 1932 Sugar Agreement Act 1932	No. 57, 1932 No. 74, 1932 No. 58, 1933	
	Dairy Produce Act 1933-1935 Trade Commissioners Act 1933 Wheat Acquisition Act 1933 Meat Export Control Act 1935 Sugar Agreement Act 1935 Whaling Act 1935 Wheat and Wheat Products Act 1935 Primary Produce Export Organization Act 1935	No. 22, 1935 No. 74, 1933 No. 67, 1933 No. 52, 1935 No. 59, 1935 No. 62, 1935 No. 65, 1935	
(ii.)	Taxation. Machinery Acts— Customs Act 1901–1935 Beer Excise Act 1901–1928	(b) (c)	

⁽a) The Crimes Act 1914-1932 comprises Act No 12, 1914, as amended by Acts No. 6, 1915, No 54, 1920, No. 9, 1926, No. 13, 1928, and No. 30, 1932.

(b) See footnote (c), supra p. x.

(c) The Beer Excise Act 1901-1928 comprises Act No. 7, 1901, as amended by No. 23, 1912, No. 31, 1918, No. 7, 1923, and No. 38, 1928.

TABLE OF COMMONWEALTH LEGISLATION FROM 1901 TO 1935, ETC.—continued

Section of	Commonwealth Act	;	
Constitution.	Short Title	Reference	Sections of Act.
Section 51 (ii.)	Taxation—continued. Machinery Acts—continued.	N- 8 1001	
	Distillation Act 1901–1934 .	No. 8, 1901 No. 34, 1918 No. 9, 1923 No. 13, 1925 No. 3, 1931 No. 8, 1934	
	Excise Act 1901–1934	No. 8, 1934 No. 9, 1901 No. 26, 1918 No. 8, 1923 No. 44, 1934	
	Sprits Act 1906–1935	(a)	-
	Spirits Act 1933 .	No 23, 1933	
	*Bounties Procedure Act 1907	No. 1, 1908	
	†Land Tax Assessment Act 1910–1934 .	(b)	1
	Estate Duty Assessment Act 1914–1928	(c)	
	#Income Tax Assessment Act 1922-1934	(d)	
	Income Tax Assessment Act (No. 2)	No. 51, 1934	
	Entertainments Tax Assessment Act \(\)	No. 36, 1916	}
	1916–1924	No. 52, 1924	13
	War-time Profits Tax Assessment Act	No 33, 1917	[]
	1917–1918	No. 40, 1918	15
		No. 28, 1923	1)
	Income Tax Collection Act 1923-1934	No. 36, 1924 No. 45 1934	17
	Taxation of Loans Act 1923	No. 30, 1923	1
	New Zealand Re-exports Act 1924	No. 21, 1924	
	Income Tax Assessment (Live Stock) Act 1924	No. 33, 1924	

Income Tax Assessment (Live Stock) No. 33, 1924

(a) See footnote (a), supra p x1
(b) The Land Tax Assessment Act 1910-1934 comprises Act No 22, 1910, as amended by Acts No 12, 1911, No 37, 1912, No 29, 1914, No 33, 1916, No 29, 1923, No 32, 1924, No. 50, 1926, No 30, 1927, No 34, 1928, No 1, 1930, No 8, 1930, No 64, 1932, and No 14, 1934
(c) The Estate Duly Assessment Act 1914-1928 comprises Act No 22, 1914, as amended by Acts No 29, 1916, No 34, 1922, and No 47, 1928
(d) The Income Tax Assessment Act 1922-1934 comprises Act No 37, 1922, as amended by Acts No 27, 1923, No. 51, 1924, No. 28, 1925, No 32, 1927, No. 46, 1923, No 11, 1920, No 50, 1930, No 60, 1930, No 27, 1923, No. 51, 1924, No. 51, 1924, No. 17 and 40, 1933, and No 18, 1934.

* This Act was, prior to the passing of the Statute Law Revision Act 1934 (rovided that the Excise Procedure Act 1907. The Statute Law Revision Act 1934 provides that the Excise Procedure Act 1907, as amended by that Act, may be cited as the Eounties Procedure Act 1907. (See section 1 and 1904) the High Court to be invalid; see judgment in the cases of the King v Burger, and the Commonwealth v. McKay (Harvester cases), 6 C L R 41. The decision also affected the validity of the Excise Procedure Act 1907 (No 1 of 1908). The provisions of that Act have, however, since been made applicable to claims for bounties under the Sugar Bounty Act 1905-1912 (see section 9 of that Act), the Manufactures Encouragement Act 1907-1912 (see section 11), the Shale old Bounty Act 1913-1917 (see section 7), the Inon Bounty Act 1913 (see section 1), the Proper Alcohol Bounty Act 1926 (see section 14), the Capter Bounty Act 1926 (see section 14), the Cuton Bounty Act 1913-192 (see section 14), the Proper Alcohol Bounty Act 1926 (see section 14), the Proper Bounty Act 1930-1931 (see section 14), the Proper Bounty Act 1926 (see section 14), the Proper Bounty Act 1930-1931 (see section 14), the Proper Bounty Act 1930-1931 (see section 14), the Proper Bounty Act 1930-1931 (see section 14), the Proper B

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued

Section of	Commonwealth Act
Constitution	Short Title Reference Sections of Act
Section 51 (11)	Taxation—continued Machinery Acts—continued. War-time Profits Tax Assessment Act No 53, 1924 1924—1926 No 27, 1926
	Income Tax Assessment (Bonus Shares) No. 12, 1926 Act 1926
,	Sales Tax Assessment Act (No 1) 1930-1935
	Sales Tax Assessment Act (No. 2) Sales Tax Assessment Act (No. 2) 1930-1935 Sales Tax Assessment Act (No. 2) No 64, 1930 No 40, 1932 No 64, 1932 No 17, 1933 No. 16, 1934 No. 30, 1934 No. 30, 1934 No. 45, 1935
	Sales Tax Assessment Act (No. 3) Sales Tax Assessment Act (No. 3) 1930-1935 Sales Tax Assessment Act (No. 3) No. 29, 1931 No. 41, 1932 No. 44, 1932 No. 17, 1933 No. 49, 1933 No. 49, 1933 No. 16, 1934 No. 45, 1935
	Sales Tax Assessment Act (No 4) No 31, 1930 No 42, 1932 No 64, 1932 No 17, 1933 No 50, 1933 No 16, 1934 No 45, 1935
	Sales Tax Assessment Act (No 5) Sales Tax Assessment Act (No 5) 1930-1935 Sales Tax Assessment Act (No 5) 1930-1935 Sales Tax Assessment Act (No 5) No. 43, 1932 No. 44, 1932 No. 64, 1932 No. 25, 1933 No 51, 1933 No 51, 1933 No 62, 1934 No. 45, 1935

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth A	d	
('onstitution.	Short Title	Reference	tions of Act
Section 51 (ii.)	Taxation—continued. Machinery Acts—continued	No. 35, 1930	
	Sales Tax Assessment Act (No. 6) 1930-1935	No. 68, 1930 No. 35, 1931 No. 44, 1932 No. 64, 1932 No. 17, 1933 No. 25, 1933 No. 52, 1933 No. 16, 1934 No. 62, 1934 No. 45, 1935	
	Sales Tax Assessment Act (No 7) 1930-1935	No. 37, 1930 No 69, 1930 No 37, 1931 No 45, 1932 No 64, 1932 No 17, 1933 No 25, 1933 No 53, 1933 No 16, 1934 No 62, 1934 No 62, 1934 No 45, 1935	
	Sales Tax Assessment Act (No 8)	No. 39, 1930 No. 70, 1930 No. 39, 1931 No. 46, 1932 No. 64, 1932 No. 17, 1933 No. 25, 1933 No. 54, 1933 No. 16, 1934 No. 62, 1934 No. 45, 1935	
	Sales Tax Assessment Act (No 9)	No. 41, 1930 No 71, 1930 No. 41, 1931 No 47, 1932 No 55, 1933 No. 9, 1935	
	Income Tax (Salaries) Assessment Act 1930	No 58, 1930	
	Flour Tax Assessment Act 1933-1934 $\Big\{$	No 43, 1933 \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	
	Sales Tax Assessment (New Zealand Imports) Act 1933	No. 25, 1933	
	Sales Tax Procedure Act 1934–1935 {	No. 53, 1934 No. 12, 1935	
	Flour Tax Assessment Act (No. 2) 1934	No. 55, 1934	
	Flour Tax Assessment Act 1934-1935	No. 55, 1934 \ No. 66, 1935 \}	
	Sales Tax Assessment (Fiji Imports) Act 1934	No. 62, 1934	
	Sales Tax Exemptions Act 1935 Sales Tax (Securities and Exemptions) Act 1935	No 60, 1935 No 61, 1935	

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Çommonwealth Act			
Constitution.	Short Title.		Reference.	Sections of Act.
Section 51 (i1.)	Taxation—continued. Taxing Acts— Excise Tariff 1902 Customs Tariff 1902 Sugar Rebate Abolition Act 1903 Excise Tariff 1906 *Excise Tariff 1906 *Excise Tariff 1906 *Excise Tariff 1906 Customs Tariff (South African Prience) 1906 Excise Tariff 1908 (Spirits) Customs Tariff 1908-1911 Excise Tariff 1908-1911 Excise Tariff (Starch) 1908 Bank Notes Tax Act 1910 Excise (Sugar) Act 1910 Land Tax Act 1910-1927 Sugar Excise Repeal Act 1912 Excise Tariff 1913 Estate Duty Act 1914 Income Tax Act 1916 Entertainments Tax Act 1916-1925 Customs Tariff Validation Act 1917 Excise Tax Act 1917 Income Tax Act 1918 Income Tax Act 1919 Customs Tariff Validation Act 1917 Income Tax Act 1919 Customs Tariff Validation Act 1919 Income Tax Act 1920 Land Tax Act 1920 Income Tax Act 1921 Income Tax Act 1921 Income Tax Act 1922 Customs Tariff 1921-1930 Customs Tariff 1921-1933 Customs Tariff (Nov Zealand Preference)		No. 11, 1902 No. 14, 1902 No. 3, 1903 No. 24, 1906 No. 16, 1906 No. 17, 1906 No. 17, 1906 No. 20, 1906 No. 14, 1908 No. 14, 1908 No. 14, 1910 No. 21, 1910 No. 21, 1910 No. 23, 1914 No. 30, 1913 No. 25, 1912 No. 6, 1913 No. 25, 1912 No. 6, 1913 No. 25, 1912 No. 48, 1915 No. 48, 1915 No. 48, 1915 No. 41, 1918 No. 7, 1917 No. 34, 1917 No. 18, 1918 No. 9, 1919 No. 17, 1919 No. 10, 1919 No. 17, 1919 No. 18, 1918 No. 9, 1919 No. 18, 1918 No. 9, 1919 No. 17, 1919 No. 18, 1918 No. 9, 1919 No. 18, 1920 No. 38, 1922 No. 28, 1924 No. 28, 1924 No. 28, 1928 No. 20, 1933 No. 21, 1933	}

^{*} See footnote * supra p. xiii.
(a) The Customs Tarifi 1908-1911 comprises Act No. 7, 1908, as amended by Acts No. 13, 1908, No. 38, 1910, and No. 19, 1911.
(b) The Entertainment Tax Act 1916-1925 comprises Act No. 38, 1916, as amended by Acts No. 25, 1918, No. 11, 1919, No. 15, 1922, and No. 23, 1925.
(c) The Customs Tarifi 1921-1930 comprises Act No. 25, 1921, as amended by Acts No. 16, 1922, No. 32, 1924, No. 22, 1923, No. 1, 1924, No. 26, 1926, No. 45, 1926, No. 2, 1928, No. 35, 1928, No. 36, 1928, and No. 3, 1930.

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Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Act			
Constitution.	Short Title	Reference	Sections of	
Section 51 (ii.)	Taxation—continued Taxing Acts—continued. Customs Tariff (New Zealand Preference) 1922-1926 Customs Tariff (New Zealand Preference) 1922 (No. 2) Customs Tariff (Industries Preservation) Act 1921-1933 Income Tax Act 1924 Dairy Produce Export Charges Act 1924-1929 Dried Fruits Export Charges Act 1924-1929 Income Tax Act 1925 Customs Tariff Validation Act 1925 Excise Tariff Validation Act 1925 Customs Tariff Validation Act 1925 Customs Tariff (Papua and New Guinea Preference) 1926 Fresh Fruits Export Charges Act 1927 Income Tax Act 1927 Pearl-shell Export Charges Act 1927 Income Tax Act 1928 Customs Tariff (New Zealand Preference) 1928 Customs Tariff (New Zealand Preference) 1928 Customs Tariff Validation Act 1928 Income Tax Act 1928 Wine Grapes Charges Acts 1929 Customs Tariff Validation Act 1929 Excise Tariff Validation Act 1929 Income Tax Act 1929 Customs Tariff Validation Act 1929 Income Tax Act 1929 Customs Tariff Validation Act 1929 Income Tax Act 1929 Customs Tariff Validation Act 1929 Income Tax Act 1929 Customs Tariff Validation Act 1930 Sales Tax Act (No. 2) 1930-1931 Sales Tax Act (No. 3) 1930-1931 Sales Tax Act (No. 4) 1930-1931	No 3, 1922 No. 38, 1926 No. 36, 1922 No. 38, 1926 No. 20, 1922 No. 30, 1933 No. 26, 1924 No. 30, 1933 No. 50, 1924 No. 15, 1929 No. 41, 1924 No. 6, 1927 No. 12, 1929 No. 29, 1925 No. 31, 1925 No. 31, 1925 No. 41, 1926 No. 16, 1929 No. 56, 1935 No. 49, 1926 No. 6, 1926 No. 23, 1927 No. 14, 1927 No. 24, 1928 No. 30, 1927 No. 25, 1928 No. 45, 1928 No. 45, 1928 No. 45, 1928 No. 47, 1929 No. 27, 1929 No. 21, 1929 No. 27, 1929 No. 27, 1929 No. 21, 1929 No. 22, 1929 No. 21, 1930 No. 26, 1930 No. 26, 1930 No. 26, 1931 No. 28, 1931 No. 30, 1930 No. 28, 1931 No. 30, 1930 No. 32, 1931 No. 32, 1931		
	Sales Tax Act (No. 5) 1930-1931	No. 34, 1930 No. 34, 1931 No. 36, 1930	 }	
	Sales Tax Act (No. 6) 1930–1932	No. 36, 1931 No. 48, 1932	}	
	Sales Tax Act (No. 7) 1930–1931 {	No. 38, 1930 No. 38, 1931	}	
	Sales Tax Act (No. 8) 1930–1931 {	No. 40, 1930 No. 40, 1931 No. 42, 1930	}	
	Sales Tax Act (No. 9) 1930-1935	No. 42, 1931 No. 10, 1935	1}	

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

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Santra of	Commonwealth Act.			
Section of Constitution	Short Title	Reference	Sections of	
Section 51	Taxation—continued Taxing Acts—continued.			
	Income Tax Acts 1930 .	No. 51, 1930 No. 61, 1930	}	
	Income Tax (Salaries) Act 1930	No. 59, 1930	را	
	Customs Tariff (Canadian Preference) 1931	No. 13, 1931		
	Income Tax Act 1931	No. 24, 1931		
	Customs Tariff Validation Act 1931 . Excise Tariff Validation Act 1931	No. 53, 1931 No. 54, 1931		
	Customs Tariff (Primage Duties) Valida- tion Act 1931	No. 55, 1931		
	Customs Tariff (Special Duties) Valida- tion Act 1931	No. 56, 1931		
	Income Tax Act 1932	No. 75, 1932	_	
	Customs Tariff (Exchange Adjustment)	No. 29, 1933	}	
	Act 1933-1934 Customs Tariff (New Zealand Prefer-	No. 3, 1934 No. 24, 1933		
	ence) Agreement Act 1933-1934	No. 24, 1935 No. 2, 1934	}	
	Customs Tariff (New Zealand Prefer	No 26, 1933	1	
	ence) 1933-1934	No. 2, 1934	}	
	Flour Tax Act (No. 1) 1933 .	No 44, 1933		
	Flour Tax Act (No. 2) 1933 Flour Tax Act (No. 3) 1933 .	No. 45, 1933		
	Income Tax Act 1933	No. 46, 1933 No. 41, 1933		
	Customs Tariff (Papua and New Guinea Preference) 1934	No. 4, 1934		
	Customs Tariff (Canadian Preference)	No 5, 1934		
	Customs Tariff (Primage Duties) 1934 Customs Tariff Validation Act 1934	No. 6, 1934 No. 23, 1934		
	Customs Tariff (Exchange Adjustment) Validation Act 1934	No. 24, 1934 No. 24, 1934		
	Excise Tariff Validation Act 1934	No. 25, 1934		
	Customs Tariff (Special Duties) Valida- tion Act 1934	No. 26, 1934		
	Income Tax Act 1934	No. 31, 1934	_	
	Flour Tax Act (No. 1) 1934-1935 {	No. 56, 1934 No. 67 1935	}	
	Flour Tax Act (No 2) 1934 .	No. 67, 1935 No. 57, 1934	,	
	Flour Tax Act (No. 3) 1934-1935 {	No. 58, 1934)	
	U	No. 68, 1935	}	
	Customs Tariff Validation Act 1935 Customs Tariff (Exchange Adjustment) Validation Act 1935	No. 19, 1935 No. 20, 1935		
	Customs Tariff (Canadian Preference) Validation Act 1935	No. 21, 1935		
	Customs Tariff Validation Act (No. 2)	No. 31, 1935		
	Customs Tariff (Exchange Adjustment) Validation Act (No. 2) 1935 Vaccome Ten Act 1937	No. 32, 1935		
	Income Tax Act 1935 Meat Export Charges Act 1935	No. 50, 1935		
	Primary Produce Export Charges Act 1935	No. 53, 1935 No. 69, 1935		
	Primary Produce Export Organization Act 1935	No. 71, 1935		
(tii.)	Bounties.			
	Sugar Bounty Act 1903	No. 4, 1903		



Table of Commonwealth Legislation from 1901 to 1935, e.g.,—continued

Section of	Commonwealth Act		
Constitution	Short Title	Reference.	Sections of Act
Section 51	Bounties—continued		_
(111.)	Sugar Bounty Act 1905–1912	No. 23, 1905 No. 16, 1910 No. 12, 1912	}
	Bountres Act 1907–1912	No. 12, 1907 No. 34, 1912	}
	Manufactures Encouragement Act \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	No. 26, 1908 No. 28, 1912 No. 4, 1914	}
	Shale Oils Bounties Act 1910 Sugar Bounty Abolition Act 1912 Wood Pulp and Rock Phosphate Boun- tres Act 1912-1917 Sugar Bounty Act 1913	No. 4, 1914 No. 23, 1910 No. 26, 1912 No. 32, 1912 No. 28, 1917 No. 7, 1913	}
	Iron Bounty Act 1914-1915 {	No 27, 1914 No 45, 1915 No. 29, 1917	}
	Shale Oil Bounty Act 1917-1926	No. 6, 1921 No. 40, 1922 No. 23, 1923 No. 36, 1926	}
	Apple Bounty Act 1918 .	No. 21, 1918	J
	Iron and Steel Bounty Act 1918-1921	No. 36, 1918 No. 30, 1921 No. 29, 1922	}
	Iron and Steel Products Bounty Act 1922-1934	No. 38, 1927 No. 32, 1929 No. 28, 1933 No. 45, 1934	}
	Meat Export Bounties Act 1922 . Meat Export Bounties Act 1923 .	No. 11, 1922 No. 4, 1923	,
	Sulphur Bounty Act 1923-1934	No 21, 1923 No 45, 1934	}
	Canned Frust Bounty Act 1924 Cattle Export Bounty Act 1924	No. 2, 1924 No. 14, 1924	,
	Wine Export Bounty Act 1924-1928	No. 23, 1924 No. 10, 1927 No. 12, 1928	}
	Cotton Bounty Act 1926 Papua and New Guinea Bounties Act 1926 Power Alcohol Bounty Act 1926	No. 51, 1926 No., 7, 1926 No. 11, 1926	
	Wine Export Bounty Act 1930-1932	No. 10, 1930 No. 2, 1931 No. 35, 1932	} .
	Cotton Industries Bounty Act 1930- }	No. 13, 1930 No. 17, 1932	}
	Flax and Linseed Bounties Act 1930- 1934	No. 45, 1930 No. 43, 1931 No. 45, 1934 No. 75, 1930	}
	Gold Bounty Act 1930–1934	No 15, 1931 No 45, 1931	}
	Wheat Bounty Act 1931-1932 {	No. 48, 1931 No. 71, 1932	}
	Wheat Bounty (Claims) Act 1932 Raw Cotton Bounty Act 1934 Wine Export Bounty Act 1934	No. 71, 1932 No. 22, 1934 No. 33, 1934	J
	Wheat Bounty Act 1934 Orange Bounty Act 1935	No. 60, 1934 No. 49, 1935	

Section of	Commonwealth A	et	
Constitution.	Short Title	Reference	Sections of Act
Section 51 (iv.)	Borrowing Money. Audit Act 1901-1934 Naval Loan Mct 1909 Naval Loan Repeal Act 1910 Commonwealth Bank Act 1911-1932 Commonwealth Inscribed Stock Act 1911-1933	(a) No 14, 1909 No 6, 1910 (b) (c) No. 24, 1911	55–59 10, 53–58, 60abe–60ab
	Loan Act 1911-1914 { Loan Act 1912-1914 Loan Act 1913-1914 }	No. 31, 1914 No. 22, 1912 No. 31, 1914 No. 24, 1913 No. 31, 1914	\ \ \ \
	Loan Act 1914 Loan Act (No. 2) 1914	No. 30, 1914 No. 31, 1914 No. 33, 1914))
	Treasury Bills Act 1914–1915 War Loan (United Kingdom) Act 1914–	No. 25, 1915 No. 35, 1914 No. 23, 1916	}
	1917 War Loan Act (No. 1) 1915 .	No. 24, 1917 No. 21, 1915 No. 22, 1915.)
	War Loan (United Kingdom) Act 1915-{ 1917 War Loan Act (No. 3) 1915 .	No. 23, 1916 No. 24, 1917 No. 50, 1915	}
	Loan Act 1915 .	No. 23, 1915 No. 31, 1915 No. 21, 1917)
	Sugar Purchase Act 1915-1920	No. 11, 1920 No. 52, 1920	}
	Freight Arrangements Act 1915-1917 { States Loan Act 1916	No. 40, 1915 No. 20, 1917 No. 17, 1916	}
	War Loan Act (No. 1) 1916 War Loan Act (United Kingdom) (No 2) 1916	No. 22, 1916 No. 24, 1916	
	States Loan Act 1917 War Loan Act 1917. Loan Act 1917 Loans Sinking Fund Act 1918 War Loan Act 1918. War Loan Securities Properties Act 1918	No. 16, 1917 No. 23, 1917 No. 30, 1917 No. 6, 1918 No. 13, 1918	
	War Loan Securities Repurchase Act 1918 Loan Act 1918 Loan Act 1919 Tasmanian Loan Redemption Act 1919 Loans Securities Act 1919	No. 14, 1918 No. 33, 1918 No. 13, 1919 No. 19, 1919	
	War Loan Act 1920	No. 25, 1919 No. 18, 1920 No. 29, 1920	
	War Gratuity Acts 1920 { Loan Act 1921 Loan Act (No. 2) 1921	No. 2, 1920 No. 17, 1920 No. 9, 1921 No. 17, 1921	}

⁽a) The Audit Act 1901-1934 comprises Act No 4, 1901, as amended by Acts No. 8, 1906, No 4, 1909, No. 6, 1912, No. 32, 1917, No. 23, 1920, No 34, 1924, No 18, 1926, and No 45, 1934.

(b) The Commonwealth Bank Act 1911-1932 comprises Act No 18, 1911, as amended by Acts No 24, 1914, No. 43, 1920, No 15, 1924, No 16, 1925, No. 36, 1927, No. 31, 1920, No 6, 1931, and No 16, 1932.

(c) The Commonwealth Inscribed Stock Act 1911-1933 comprises Act No. 20, 1911, as amended by Acts No. 40, 1912; No. 16, 1913, No. 26, 1925, Nos 6 and 7, 1918, No 2, 1927, No. 25, 1932, and No 5, 1933.



Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	et.	
Constitution	Short Title	Reference	Sections of Act.
Section 51 (iv)	Borrowing Money—continued Funding Arrangements Act 1921 Loans Redemption and Conversion Act 1921	No. 15, 1921 No. 18, 1921	
	Repatration Loan Act 1921 Immigration Loan Act 1922 Loan Act 1922 Loan Act 1923 Taxation of Loans Act 1923	No 38, 1921 No 31, 1922 No. 7, 1922 No 35, 1923 No 30, 1923 No. 5, 1923 No 6, 1924]
	National Debt Sinking Fund Act 1923- 1934	No 3, 1925 No. 19, 1928 No. 17, 1929 No. 72, 1930 No. 52, 1934	}
	Loan Act (No. 1) 1924 Loan Act (No. 2) 1924 Loan Act (No. 3) 1924 Onl Agreement Act 1924	No. 3, 1924 No. 16, 1924 No. 44, 1924 No. 7, 1924	
	Seat of Government (Administration) Act 1924–1929	No. 8, 1924 No. 32, 1926 No. 44, 1928 No. 29, 1929	20
	States Loan Act 1924 Grafton-South Brisbane Railway Act 1924-1930	No. 17, 1924 No. 54, 1924 No. 34, 1926 No. 24, 1929	4, 5
	States Loan Act 1925–1927 .	No. 49, 1930 No. 6, 1925 No 35, 1926 No. 12, 1927	}
	Loan Act (No. 1) 1925 Loan Act (No. 2) 1925 Loan Act (No. 1) 1926	No. 2, 1925 No. 15, 1925 No. 33, 1926	,
	Oil Agreement Act 1926	No. 14, 1926 No. 16, 1926 No. 29, 1926 No. 11, 1930	$\left.\begin{array}{c} 3\\31\\12\end{array}\right.$
	Commonwealth Housing Act 1927- 1928 Loan Act (No. 1) 1927 Loan Act (No. 2) 1927	No. 35, 1927 No. 10, 1928 No. 7, 1927 No. 27, 1927	} 10
	Financial Agreement Act 1928 Loan Act (No. 1) 1928 Loan Act (No. 2) 1928 Financial Agreement Validation Act	No 5, 1928 No. 26, 1928 No. 33, 1928 No. 4, 1929	
	Loan Act 1929 Loan Act 1930 Loan Act 1931 Debt Conversion Agreement Act 1931	No. 33, 1929 No. 54, 1930 No. 12, 1931 No. 14, 1931	•
	Commonwealth Debt Conversion Act 1931 Commonwealth Debt Conversion Act	No. 18, 1931 No. 1, 1932	
	(No. 2) 1931 Debt Conversion Agreement Act (No. 2) 1931	No. 52, 1931	
	Loan (Unemployment Relief Works) { Act 1932	No. 9, 1932 No. 23, 1932	}

Section of	Commonwealth Act.			
Constitution.	Short Title	Reference	Sections of Act	
Section 51 (iv.)	Borrowing Money—continued Loan Act (No 2) 1934 Loan Appropriation (Unemployment { Rehef) Act 1934-1935	No. 47, 1934 No. 66, 1934 No. 2, 1935	}	
(v.)	Postal, Telegraphic, &c., Services. Post and Telegraph Act 1901-1934 Post and Telegraph Rates Act 1902- 1931 Commonwealth Electoral Act 1902- 1911	(α) (b) (c)	206v, 207	
	Commonwealth Electoral Act 1918-	(d)	212, 213	
	Wireless Telegraphy Act 1905–1919	No. 8, 1905 No. 33, 1915 No. 4, 1919	}	
	Referendum (Constitution Alteration) Act 1906-1928	(e)	37, 38	
	Telegraph Act 1909 Purchase Telephone Lines Acquisition Act 1911	No. 9, 1909 No. 9, 1911		
	Pacific Cable Act 1911 Navigation Act 1912-1935 Wireless Agreement Act 1924	No. 25, 1911 (f)	95-97	
	Northern Australia Act 1926 . Crimes Act 1914–1932 . Wireless Agreement Act 1927	No. 24, 1924 No. 16, 1926 (g)	56 30н	
	Australian Broadcasting Commission Act	No. 37, 1927 No. 14, 1932		
(⊽1.)	Naval and Military Defence. General—	`		
	Naval Agreement Act 1903-1912	No. 8, 1903 No 10, 1912	}	
	Defence Act 1903-1934 Telegraph Act 1909 Naval Loan Act 1909 Naval Loan Repeal Act 1910	No. 9, 1909 No. 14, 1909 No. 6, 1910	,	
	Naval Defence Act 1910-1934	No. 30, 1910 No. 16, 1911 No. 21, 1912 No. 45, 1918		
	Defence Lands Purchase Act 1913 Control of Naval Waters Act 1918 Deceased Soldiers' Estates Act 1918 1919	No. 45, 1934 No. 18, 1913 No. 28, 1918 No. 44, 1918 No. 33, 1919	}	
	Defence Retirement Act 1922 Air Force Act 1923	No. 9, 1922 No. 33, 1923	,	

⁽a) The Post and Telegraph Act 1901-1934 comprises Act No. 12, 1901, as amended by Acts No. 23, 1910 No. 30, 1912, No. 23, 1913, No. 14, 1916, No. 17, 1923, and No. 45, 1934.

(b) The Post and Telegraph Rates Act 1902-1931 comprises Act No. 13, 1922, as a nended by Acts No. 10, 1906, No. 24, 1910, No. 3, 1911, No. 23, 1913, No. 24, 1918, No. 27, 1920, No. 16, 1923, No. 12, 1924, No. 20, 1930, and No. 1, 1931

(c) See footnote (a), supra p. viii.

(d) See footnote (b), supra p. vii.

(e) The Referendum (Constitution Alteration) Act 1906-1923 comprises Act No. 11, 1906, as amended by and No. 20, 1909, No. 31, 1910, No. 17, 1912, No. 35, 1912, No. 38, 1915, No. 14, 1919, No. 23, 1921, (f) See footnote (c), supra p. xii.

(a) See footnote (c), supra p. xii.

(b) The Defence Act 1903-1934 comprises Act No. 20, 1903, as amended by Acts No. 12, 1904, No. 15, 1909, No. 30, 1611, No. 37, 1910, No. 15, 1911, No. 5, 1912, No. 36, 1914, No. 3, 1915, No. 36, 1917, No. 66, 1918, No. 47, 1918, No. 1, 1927, No. 50,01932, and No. 45, 1934.

xxiii Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of Constitution	Commonwealth Act		
	Short Title	Reference	Sections of Act
Section 51 (vi.)	Naval and Military Defence—continued WAR LEGISLATION—		
(7	*	No. 9. 1914	1
	Trading with the Enemy Act 1914–1921	No 17, 1914 No. 20, 1916 No 23, 1921	}
	War Precautions Act 1914-1918 .	(a)	,
	Patents, Trade Marks and Designs Act 1914–1915	No. 15, 1914 No. 16, 1914 No. 8, 1915	}
	Enemy Contracts Annulment Act 1915	No. 11, 1915 No. 34, 1914	5
	War Pensions Act 1914-1916	No. 28, 1915 No. 25, 1916	}
	War Census Act 1915-1916	No. 20, 1915 No. 32, 1915 No. 21, 1916	}
	Patents Act (Partial Suspension) Act 1916 Australian Soldiers' Reputriation Fund	No. 13, 1916 No. 7, 1916	
	Act 1916 Military Service Referendum Act 1916 Daylight Saving Act 1916	No. 27, 1916 No. 40, 1916	
	Unlawful Associations Act 1916–1917 {	No 41, 1916 No 14, 1917	}
	Wheat Storage Act 1917	No. 15, 1917	
	Daylight Saving Repeal Act 1917	No. 35, 1917	
	Australian Schliers' Repatriation Act	No. 37, 1917	}
	1917-1918 Defence (Civil Employment) Act 1918- 1922	No. 15, 1918 No. 17, 1918 No. 6, 1922	}
	War Service Homes Act 1918-1935	(b)	
	War Service Homes Agreement Act 1927 War Service Homes Agreement Act 1932	No. 33, 1927 No. 56, 1932	
	War Service Homes (South Australia) Agreement Act 1934	No. 12, 1934	
	War Service Homes Commissioner Vali- dating Act 1921	No. 4, 1921	
	Moratorium Act 1919	No. 2, 1919	
	Commercial Activities Act 1919 .	No. 3, 1919 No. 20, 1919	5
	Treaty of Peace (Germany) Act 1919- {	No. 39, 1920	>
	Termination of the Present War (Definition) Act 1919	No. 26, 1919	
	Land, Mining, Shares and Shipping Act 1919	No. 27, 1919	
	Legal Proceedings Control Act 1919	No. 30, 1919	
	War Gratuity Acts 1920	No. 2, 1920	1}
	Australian Imperial Force Canteens	No. 17, 1920 No. 3, 1920	ر
	Funds Act 1920 Australian Soldiers' Repatriation Act 1920–1935	(c)	
	Treaties of Peace (Austria and Bulgaria) Act 1920	No 40, 1920	1

⁽a) The War Precautions Act 1914-1918 comprises Act No. 10, 1914, as amended by Acts No. 2, 1915, No. 39, 1915, No. 3, 1916, and No. 37, 1918
(b) The War Service Homes Act 1918-1935 comprises Act No. 43, 1918, as amended by Acts No. 28, 1919, No. 35, 1920, No. 18, 1923, No. 26, 1925, No. 47, 1926, No. 17, 1927, No. 13, 1929, Nos. 6 and 68, 1932, No. 63, 1934 and No. 54, 1935.
(c) The Australum Soldiers' Reputration Act 1920-1935 comprises Act No. 6, 1920, as amended by Acts No. 34, 1921, No. 23, 1922, No. 14, 1929, No. 74, 1930, Nos. 10 and 47, 1931, No. 32, 1934, and No. 58, 1935

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1 ABBIN OF C	Commonwealth Ac	et.	
Section of Constitution	Short Title	Reference	Sections of Act
Section 51 (vi.)	Naval and Military Defence—continued. WAR LEGISLATION—continued. War Precautions Act Repeal Act 1920— 1934	(a)	
	War Precautions (Coal) Act 1921 Treaty of Peace (Hungary) Act 1921 Treaties of Washington Act 1922 Australian War Memorial Act 1925 London Naval Treaty Act 1930 Soldier Settlement Loans (Financial Agreement) Act 1935	No. 22, 1921 No. 20, 1921 No. 4, 1922 No. 18, 1925 No. 44, 1930 No. 26, 1935	
(V11.)	Lighthouses. Lighthouses Act 1911-1919	No. 14, 1911 No. 17, 1915	}
(7111.)	Astronomical and Meteorological Obser- vations.	No. 6, 1919	J
(1 x.)	Meteorology Act 1906 Quarantine. Quarantine Act 1908-1924 Beaches, Fishing Grounds and Sea	No. 3, 1906 (b) No. 73, 1932	
(x.)	Routes Protection Act 1932 Fisheries in Australian Waters Beyond Territorial Limits.	ļ	
	Beaches, Fishing Grounds and Sea Routes Protection Act 1932	No. 73, 1932 No. 62, 1935	
(x1.)	Whaling Act 1935	No. 15, 1905 No. 33, 1920	Į
	War Census Act 1915–1916	No. 18, 1930 No. 20, 1915 No. 32, 1915	{
(XII.)	Statistical Bureau (Tasmania) Act 1924 Currency, Coinage, and Legal Tender.	No. 21, 1916 No. 48, 1924	J
	Comage Act 1909	No. 6, 1909 No. 11, 1910 No. 21, 1911 No. 23, 1914	}
	Commonwealth Bank Act 1911–1932	No. 23, 1914 (c)	7B, 60a-60ab
(xii1.)	Banking and Issue of Paper Money. Australian Notes Act 1910–1914	No. 11, 1910)
:	Commonwealth Bank Act 1911–1932	No. 21, 1911 No. 23, 1914 (c)	}
(xiv.)	Commonwealth Housing Act 1927- { 1928 Insurance. Life Assurance Companies Act 1905 .	No. 35, 1927 No. 10, 1928 No. 12, 1905	}
	Marine Insurance Act 1909	No. 11, 1909 No. 4, 1932	}
(xv1.)	Bills of Exchange and Promissory Notes,	No. 29, 1932	J٠ ,
	Bills of Exchange Act 1909–1932	No. 27, 1909 No. 24, 1912 No. 61, 1932	}
	Commonwealth Bank Act 1911-1932	(c)	29▲

⁽a) See footnote (d), supra p. xl.
(b) The Quarantine Act 1908-1924 comprises Act No. 3, 1908, as amended by Acts No. 15, 1912, No. 24, 1915, No. 47, 1920, and No. 30, 1926.
(c) See footnote (b), supra p. xx.



Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Act			
Constitution.	Short Title	Reference	Sections of Act	
Section 51 (xvii.) (xviii.)	Bankruptcy and Insolvency. *Bankruptcy Act 1924–1933	(a)		
	Customs Act 1901–1935	(b) (c) (d) No. 25, 1905 No. 4, 1906 No. 14, 1912 No. 53, 1932	25(a), 57	
	Designs Act 1906-1934	No 70, 1932 No. 36, 1933 No. 42, 1934 No. 45, 1934		
	Patents Trade Marks and Designs Act 1910	No. 19, 1910 No. 20, 1912	1	
	Copyright Act 1912-1935	No. 68, 1933 No. 17, 1935	}	
	Patents, Trade Marks and Designs Act 1914–1915	No. 15, 1914 No. 16, 1914 No. 8, 1915	}	
	Patents, Trade Marks and Designs Act 1932	No. 70, 1932		
(xix)	Patents Act (Partial Suspension) Act 1916 Boy Scouts' Association Act 1924 Naturalization and Aliens.	No. 13, 1916 No. 31, 1924	3	
, ,	Naturalization Act 1903–1917	No. 11, 1903	}	
	War Precautions Act 1914-1918	No. 25, 1917 (e) No 48, 1920	5, 9	
	Nationality Act 1920-1930 .	No. 24, 1922 No. 10, 1925 No. 9, 1930	}	
	Aliens Registration Act 1920	No. 49, 1920 No. 17, 1926		
	War Precautions Act Repeal Act 1920– 1934	(f)	8	
	Maternity Allowance Act 1912-1934	No 8, 1912 No. 48, 1926 No. 34, 1927 No. 10, 1931 No. 47, 1931 No 35, 1932	6	
(xx.)	Corporations. Boy Scouts' Association Act 1924	No. 16, 1934 No. 31, 1924	J	

⁽a) The Bankruptcy Act 1924-1933 comprises Act No. 37, 1924, as amended by Acts No. 3, 1927, ...

(a) The Bankruptcy Act 1924-1933 comprises Act No. 37, 1924, as amended by Acts No. 3, 1927, ...

(b) See footnote (c), supra p x

(c) The Patents Act 1903-1935 comprises Act No. 21, 1903, as amended by Acts No. 19, 1906, No. 17, 1909, No. 24, 1921, No. 76, 1930, No. 70, 1932, No. 57, 1933, No. 45, 1934, and No. 16, 1935.

(d) The Trade Marks Act 1905-1934 comprises Act No. 20, 1905, as amended by Acts No. 19, 1912, No. 7, 1919, No. 25, 1922, and No. 45, 1934

(e) See footnote (a), supra p xill

(f) See footnote (a), supra p x.

Sections 12 (5), 18 (1) (b), 23 and 24 of the Bankruptcy Act 1924-1928 were declared by the High Court to be ultra trees and void. See Le Mesurer v Connor, 42 C L R 481, 36 A L R. 41.

Part VII of the Trade Marks Act 1905 (No. 20 of 1905), relating to Workers' Trade Marks was declared by the High Court to be invalid; see judgments in the case of the Attorneu-General of New South Wales and others v. the Brewery Employees' Union of New South Wales and the Registrar of Trade Marks, 6 C L R 469, 14 A.L.R 565 Part VII. was repealed by the Trade Marks Act 1912

xxvi TABLE OF COMMONWEALTH LEGISLATION FROM 1901 TO 1935, ETC.—continued.

Section of	Commonwealth	Act.	
Constitution.	Short Title	Reference	Sections of Act
Section 51 (XXII)	Divorce and Matrimonial Causes. Matrimonial Causes (Expeditionary Forces) Act 1919	No. 15, 1919	
(4411)	Invalid and Old-age Pensions. Invalid and Old-age Pensions Act 1908– 1935	(a)	
(xviv.)	Service and Execution of Process. Service and Execution of Process Act 1901-1934 Service and Execution of Process Act 1905	(b) No. 5, 1905	
(vxv)	Recognition of State Laws, &c. State and Territorial Laws and Records { Recognition Act 1901–1928	No. 5, 1901 No. 15, 1928	}
·(xxvi)	People of any Race—other than Aboriginal.		
	Pacific Island Labourers Act 1901–1934	No. 16, 1901 No. 22, 1906	}
	Post and Telegraph Act 1901-1934 Commonwealth Franchise Act 1902 Sugar Bounty Act 1903	No. 45, 1934 (c) No. 8, 1902 No. 4, 1903	6 4 2
	Sugar Bounty Act 1905-1912	No. 23, 1905 No. 16, 1910 No. 12, 1912	}
	Naturalization Act 1903–1917	No. 11, 1903 No. 25, 1917	} 5
	Bountres Act 1907-1912 .	No. 12, 1907 No. 34, 1912	3, 4
	Invalid and Old-age Pensions Act 1908– 1935	(a)	16, 21
	Commonwealth Electoral Act 1918-1934	(d)	39
(xxvii)	Immigration and Emigration.	-	
	Pacific Island Labourers Act 1901-1934	No. 16, 1901 No. 22, 1906	}
	Immigration Act 1901–1935	No. 45, 1934 (e) No. 19, 1905 No. 26, 1910 No. 46, 1920	J
	War Precautions Act Repeal Act 1920-	(<i>f</i>)	9
	Development and Migration Act 1926-	No. 29, 1926 No 11, 1930	}
(xxviii.)	Influx of Criminals. Immigration Act 1901–1935	(e)	3 (ga), (gb)
			- 18-17 (80)

⁽a) The Invalid and Old-age Pensions Act 1908-1935 comprises Act No 17, 1908, as amended by Acts No. 3, 1909, No. 21, 1909, No. 27, 1912, No 32, 1916, No 22, 1917, No 22, 1919, No. 53, 1920, No. 15, 56, 1933, and No. 1, 1935.

(b) See footnote (a), supra p. vii.

(c) See footnote (a), supra p. xxii

(d) See footnote (b), supra p. xxii

(e) The Immigration Act 1901-1935 comprises Act No 17, 1901, as amended by Acts No 17, 1905, No. 25, 1908, No. 10, 1910, No. 38, 1912, No. 51, 1920, No 47, 1924, No 7, 1925, No. 56, 1930, No (f) See footnote (d), supra p. xii

1.

xxvii Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Act			
Constitution	Short Title.	Reference	Sections of Act.	
Section 51	External Affairs.	NT 12 1000		
(xxix.)	Extradition Act 1903-1934	No 12, 1903 No. 35, 1933	}	
	High Commissioner Act 1909 High Commissioner Act 1932 Nauru Island Agreement Act 1919 Nauru Island Agreement Act 1932 Air Navigation Act 1920 Treaties of Washington Act 1922 London Naval Treaty Act 1930 United Kingdom and Australia Trade Agreement Act 1932	No. 45, 1934 No. 22, 1909 No. 34, 1932 No. 8, 1919 No. 54, 1932 No. 50, 1920 No. 4, 1922 No. 4, 1930 No. 57, 1932	J	
(xxx)	Relations with Pacific Islands.	3T 30 3003		
	Pacific Island Labourers Act 1901-	No. 16, 1901 No. 22, 1906 No. 45, 1934	}	
	Nauru Island Agreement Act 1919 Nauru Island Agreement Act 1932	No. 8, 1919 No. 54, 1932 No. 25, 1920	ر ا	
	New Guinea Act 1920–1935	No. 15, 1926 No. 51, 1932 No. 63, 1935	}	
(xxxı.)	Acquisition of Property for Public Purposes.	210 00, 1000	J	
	Property for Public Purposes Acquisition Act 1901	No. 13, 1901		
	Patents Act 1903-1935	No. 7, 1904	19 4	
	Trade Marks Act 1905–1934 . Copyright Act 1905	No. 25, 1905	14 12	
		No. 4, 1906 No. 14, 1912		
	Designs Act 1906–1934	No. 53, 1932 No. 70, 1932 No. 36, 1933	} 11	
		No. 42, 1934 No. 45, 1934 No. 13, 1906	_	
	*Lands Acquisition Act 1906–1934	No. 12, 1916 No. 5, 1932	}	
	Seat of Government Act 1908 Seat of Government Acceptance Act 1909	No. 45, 1934 No. 24, 1908 No. 23, 1909 No. 25, 1910	6 10	
	Seat of Government (Administration) Act 1910–1933	No. 2, 1930 No. 9, 1931 No. 4, 1933	10	
	Seat of Government (Administration) Act 1930–1935	No. 2, 1930 No. 67, 1934 No. 39, 1935 No. 27, 1910	}	
	Northern Territory (Administration) Act 1910-1933	No. 19, 1926 No. 5, 1931 No. 7, 1931 No. 18, 1933	9	

⁽a) See footnite (c), supra p xxv.
(b) See footnote (d), supra p xxv.

* Section 20 of the Lands Acquisition Act 1906-1916 was declared to be ultra vires the Commonwealth Parliament. See The Commonwealth v. The State of New South Wales, 33 C L R 1, 29 A.L. R 401

XXVIII

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Act		
Section of Constitution	Short Title	Reference	Sections of Act
Section 51 (xxxi.)	Acquisition of Property for Public Purposes—continued. Kalgoorlie to Port Augusta Railway Act 1911—1912 Purchase Telephone Lines Acquisition	No 7, 1911 No 3, 1912 No 9, 1911	} 19
	Act 1911 Lighthouses Act 1911–1919	No 14, 1911 No. 17, 1915 No. 6, 1919	5, 6, 6A
	Lands Acquisition Act 1912 Defence Lands Purchase Act 1913 Commonwealth Railways Act 1917- { 1925 Kalgoorlie to Port Augusta Railway } Lands Act 1918-1920	No. 39, 1912 No. 18, 1913 No. 31, 1917 No. 11, 1925 No. 4, 1918 No. 36, 1920	} 63
	Lands Acquisition (Defence) Act 1918 War Service Homes Act 1918-1935 Seat of Government Acceptance Act 1922	No 5, 1918 (a) No. 28, 1922	16
	Northern Territory Railway Extension Act 1923	No. 11, 1923	8
	Naval Properties Transfer Act 1925 . Oodnadatta to Alice Springs Railway	No. 19, 1925 No. 3, 1926	9
	Act 1926 Northern Australia Act 1926. Port Augusta to Red Hill Ruilway Act 1930-1935 Port Augusta to Port Piric Railway Act	No. 16, 1926 No. 77, 1930 No. 25, 1935 No 72, 1935	32, 55 9 12
(xxxII.)	1935 Control of Railways for Defence Purposes.		
, ,	Defence Act 1903-1934	(b)	64-66, 80,
(xxxiv.)	Railway Construction and Extension.	, ,	124 (1) (r
	Kalgoorlie to Port Augusta Rarlway Sur- vey Act 1907	No 4, 1907	
•	Kalgoorlie to Port Augusta Railway { Act 1911-1912 Commonwealth Railways Act 1917- } 1925	No 7, 1911 No. 3, 1912 No. 31, 1917 No. 11, 1925	}
	Kalgoorlie to Port Augusta Railway Lands Act 1918–1920	No. 4, 1918 No. 36, 1920	}
	Grafton to South Brisbane Railway Act 1924-1930	No. 34, 1924 No. 34, 1926 No. 24, 1929	}
	Railways (South Australia) Agreement Act 1926	No. 49, 1930 No. 2, 1926	3
	Oodnadatta to Alice Springs Railway Act 1926	No 3, 1926	
	Port Augusta to Red Hill Railway Act 1930-1935 Port Augusta to Port Piric Railway Act 1935	No. 77, 1930 No. 25, 1935 No. 72, 1935	}

⁽a) See footnote (b), supra p xxiii.
(b) See footnote (h), supra p xxii

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Contrar of	Commonwealth Act			
Section of Constitution.	Short Title	Reference	Sections of Act	
Section 51 (xxxv.)	*Conciliation and Arbitration. *Commonwealth Conciliation and Arbitration Act 1904-1934	(a)		
	Contract Immigrants Act 1905 .	No. 19, 1905 No. 27, 1910	12	
	Northern Territory (Administration) Act 1910-1933	No. 19, 1926 No. 5, 1931 No. 7, 1931	6	
	Arbitration (Public Service) Act 1911	No. 18, 1933 No. 11, 1911	J	
	Iron Bounty Act 1914-1915 {	No. 27, 1914 No. 45, 1915	} 11	
	Commonwealth Railways Act 1917-	No. 31, 1917 No. 11, 1925	} 47	
	Apple Bounty Act 1918	No. 21, 1918	6	
	Iron and Steel Bounty Act 1918-1921	No. 36, 1918 No. 30, 1921	} 10	
	Industrial Peace Acts 1920	No. 21, 1920 No. 55, 1920	}	
	Arbitration (Public Service) Act 1920-	No. 28, 1920 No. 1, 1928 No. 25, 1929	}	
	Shale Oil Bounty Act 1917-1926	No 45, 1934 No 29, 1917 No 6, 1921 No 40. 1922	6	
		No. 23, 1923 No. 36, 1926 No. 29, 1922		
	Iron and Steel Products Bounty Act 1922–1934	No. 38, 1927 No. 32, 1929 No. 28, 1933 No. 45, 1934	10	
	Sulphur Bounty Act 1923-1934	No. 21, 1923	}	
	Power Alcohol Bounty Act 1926 Northern Australia Act 1926 Cotton Bounty Act 1926	No. 45, 1934 No. 11, 1926 No. 16, 1926 No. 51, 1926	13 52 10	
	Wine Export Bounty Act 1930-1932	No. 10, 1930 No. 2, 1931 No. 35, 1932	} 14	

⁽a) The Commonwealth Conciliation and Arbitration Act 1904—1934 comprises Act No. 13, 1904, as amended by Acts No. 28, 1909, No. 7, 1910, No. 6, 1911, No. 5, 1914, No. 18, 1914, No. 35, 1915, No. 39, 1918, No. 31, 1920, No. 29, 1921, No. 22, 1920, No. 81, 1927, No. 18, 1928, No. 43, 1930, No. 45, 1934, and No. 54, 1934

* The Commonwealth Conciliation and Arbitration Act 1904 (No. 13 of 1904) was declared by the High Court to be invalid in so far as it purports to affect State Railway. See the Federated Amalgamated Government Railway and Trainway Service. Issociation v. the N.S.W. Railway Traffic Employees Association, 4 C. L.R. 488, 13 A. L.R. 273. This decision vas overruled, however, by the Amalgamated Society of Engineers v. The Adeliade Steamship Company Limited and others, 28 C. L.R. 129, 26 A. L.R. 337. (See also Australian Railways Union v. Victorian Railways Commissioners, 44 C. L.R. 319, 37 A. L.R. 37). The High Court has also declared that s. 12 (1) of the Act and an appointment of the President in terms thereof are valid so far only as the exercise of arbitral powers is concerned, and that the Act is invalid in so far as it purports to confer powers of enforcement upon the President See the Waterside Workers' Federation v. Alexander, 25 C. L.R. 434; 24 A. L.R. 341 (Since this decision was given, the Court has been reconstituted by the appointment of Judges with life tenure. See Commonwealth Conciliation and Arbitration Act 1926). Section 38 (f) and (g) of the Act has been declared by the High Court to be invalid in so far as it purports to empower the Court of Conciliation and Arbitration to make a Common Rule in respect of any industry. See the Australian Boot Trade Employees' Federation v. Whybrow and others, 11 C. L.R. 311, 16 A. L.R. 513. As to the validity of section 30, see Federated Saw Mill, &c. Employees of Australian and Arbitration. The Australian Boot Trade Employees' Federation v. Whybrow and others, 10 C. L.R. 266; 16 A. L.R. 183, and R. v. Commonwealth Court of Conciliation and Arbitr

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth	Act	
Constitution.	Short Title,	Reference	Sections of Act
Section 51 (xxxv.)	Conciliation and Arbitration—continued. Cotton Industries Bounty Act 1930—1932 Flax and Linseed Bounties Act 1930—1934 Gold Bounty Act 1930—1934	No. 13, 1930 No. 17, 1932 No. 45, 1930 No. 43, 1931 No. 45, 1934 No. 75, 1930 No. 15, 1931	14
(xxxv1.)	Matters provided for by the Constitution "until the Parliament otherwise provides." Audit Act 1901–1934 Commonwealth Public Service Act 1902–	(a)	J
	1918 Commonwealth Franchise Act 1902 Commonwealth Electoral Act 1902–1911	No. 8, 1902	∫12-23, 94-96,
	Parliamentary Allowances Act 1902	(c) No. 20, 1902	192-206 _F
	Senate Elections Act 1903-1922	No. 2, 1903 No. 22, 1922	}
	Representation Act 1905 Representation Act 1916 Parliamentary Allowances Act 1907 Surplus Revenue Act 1908 Surplus Revenue Act 1909 Surplus Revenue Act 1910 Ministers of State Act 1915 Ministers of State Act 1917 Commonwealth Electoral Act 1918–1934	No. 11, 1905 No. 15, 1916 No. 5, 1907 No. 15, 1908 No. 18, 1909 No. 8, 1910 No. 18, 1915 No. 40, 1917 (d)	
	Parliamentary Allowances Act 1920 States Grants Act 1927–1934 {	No. 12, 1920 No. 4, 1927 No. 45, 1934	}
(xxxxx.)	Matters incidental to Execution of Powers.		
	Appropriation and Supply Acts	No. 2, 1901)
	Acts Interpretation Act 1901–1932	No. 4, 1916 No. 8, 1918 No. 23, 1930	
	Punishment of Offences Act 1901	No. 24, 1932 No. 14, 1901 (b)	J
	*Royal Commissions Act 1902–1933 {	No. 12, 1902 No. 4, 1912 No. 1, 1933	}

⁽a) See footnote (a), supra p. xx
(b) The Commonwealth Public Service Act 1902-1918 comprises Act No 5, 1902, as amended by Acts
No. 19, 1903, No. 25, 1909, No. 26, 1911, No. 17, 1913, No 37, 1915, No 8, 1916, No. 18, 1917, and No.
46, 1918.
(c) See footnote (a), supra p vii.
(d) See footnote (b), supra p vii.
As to the valudity of the Royal Commissions Act 1902-1912, see decisions of the High Court and the
Privy Council in Attorney-General for the Commonwealth v. Colonial Sugar Refining Co Ltd. and others,
15 C.L.B. 182, 18 A.L.B. 429; and 17 C.L.B. 644; 20 A.L.B. 22

TABLE OF COMMONWEALTH LEGISLATION FROM 1901 TO 1935, ETC.—continued.

Section of	Commonwealth Act.		
Constitution	Short Title.	Reference	Sections of
Section 51 (xxxix.)	Matters incidental to Execution of Powers—continued. *Judiciary Act 1903–1934	(a) No 7, 1903	
	High Court Procedure Act 1903-1933	No. 5, 1915 No. 35, 1921 No. 5, 1925 No. 63, 1933	}
	High Court Procedure Amendment Act 1903	No 13, 1903	
	Rules Publication Act 1903-1934	No. 18, 1903 No. 16, 1916 No. 45, 1934 No. 1, 1904	}
	Acts Interpretation Act 1904–1934	No. 4, 1916 No 23, 1930 No. 24, 1932 No 45, 1934	}
	Jury Exemption Act 1905–1932	No. 2, 1905 No. 26, 1922 No. 59, 1932	
	Evidence Act 1905–1934	No. 4, 1905 No. 43, 1934	}
	Secret Commissions Act 1905 Amendments Incorporation Act 1905-	No. 10, 1905 No. 13, 1905 No. 32, 1918	}
	Governor-General's Residences Act 1906 Commonwealth Salaries Act 1907 Commonwealth Inscribed Stock Act 1911-1933	No 2, 1906 No 7, 1907 (b)	
	Statutory Declarations Act 1911-1922	No 3, 1911	}
	Arbitration (Public Service) Act 1911 .	No. 5, 1922 No 11, 1911 No. 8, 1912 No. 48, 1926	
	Maternity Allowance Act 1912-1934	No. 34, 1927 No. 10, 1931 No. 47, 1931 No. 35, 1932	}
	Commonwealth Workmen's Compensa- tion Act 1912	No 16, 1934 No 29, 1912	ر _ا ا
	Committee of Public Accounts Act 1913-1934	No. 19, 1913 No. 14, 1920 No. 45, 1934	}
	Committee of Public Accounts Act 1932	No 58, 1932	5
	Commonwealth Public Works Com- mittee Act 1913-1921	No. 32, 1914 No. 19, 1921	}
	Commonwealth Public Works Committee Act 1932 Crimes Act 1914–1932	No. 52, 1932	
	Commonwealth Public Service (Acting Commissioner) Act 1916	No. 9, 1916	

⁽a) The Judiciary Act 1903-1934 comprises Act No 6, 1903, as amended by Acts No 5, 1906, No 8, 1907, No 34, 1910, No. 31, 1912, No 11, 1914, No. 4, 1915, No 38, 1920, No 39, 1926, No 9, 1927, No 60, 1932, Nos 34 and 65, 1933, and No 45, 1934.

(b) See footnote (c), supra p xx

(c) See footnote (c), supra p xx

(e) See footnote (u), supra p xii

*Part XII of the Judiciary Act 1903-1920 was declared by the High Court to be invalid in so far as it purports by s. 88 to give the High Court jurisdiction to "hear and determine" any question referred to it by the Governor-General as to the validity of any Commonwealth enactment, and by s. 93 to make the determination "final and conclusive and not subject to any appeal" See In re Judiciary and Navigation Acts, 29 C L.R. 257, 27 A L R. 193

Section of	Commonwealth Act		
Constitution.	Short Title	Reference	Sections o
Section 51 (xxxix.)	Matters incidental to Execution of Powers— continued.		
(Solicitor-General Act 1916	No. 28, 1916 No. 26, 1917	
	Committee of Public Accounts Act 1917 Sugar Industry Commission Act 1919	No. 27, 1917 No. 16, 1919	
	Arbitration (Public Service) Act 1920-	No. 28, 1920 No. 1, 1928 No. 25, 1929	}
	Westralian Farmers' Agreement Act 1920 Westralian Farmers' Agreement Act 1921	No. 45, 1934 No. 30, 1920 No. 2, 1921	,
	Air Navigation Act 1920 War Precautions Act Repeal Act 1920– 1934	No. 50, 1920 (a)	
	Returned Soldrers' Woollen Company Loan Act 1921 War Precautions (Coal) Act 1921	No. 37, 1921 No 22, 1921	
	Commonwealth Public Service Act 1922- 1934	(b)	
	Defence Retirement Act 1922 South Australian Farmers' Agreement Act 1922	No. 9, 1922 No. 35, 1922	
	Superannuation Act 1922-1934	No. 33, 1922 No. 45, 1924 No. 22, 1930	-
	Treaties of Washington Act 1922	No. 10, 1931 No. 45, 1934 No. 4, 1922	
	Advances to Settlers Act 1923 Agreements Validation Act 1923 Commonwealth Shipping Act 1923	No. 4, 1922 No. 19, 1923 No. 31, 1923 No. 3, 1923	
	Income Tax Collection Act 1923-1924	No. 28, 1923 No. 36, 1924	>
	Main Roads Development Act 1923-	No. 2, 1923 No. 5, 1924 No. 17, 1925	-
	Wheat Pool Advances Act 1923	No. 32, 1923 No. 38, 1924	
	Dairy Produce Export Control Act 1924–1935	No. 45, 1934 No. 70, 1935	>
	Dried Fruits Advances Act 1924–1926	No. 20, 1924 No. 13, 1926 No. 40, 1924	>
	Dried Fruits Export Control Act 1924- 1935	No. 46, 1930 No. 45, 1934 No. 3, 1935	
	Export Guarantee Act 1924-1934	No. 42, 1924 No. 4, 1925 No. 45, 1934	
	Hop Pool Agreement Act 1924 Meat Industry Encouragement Act 1924 Oil Agreement Act 1920	No. 9, 1924 No. 55, 1924 No. 13, 1920	
	Oil Agreement Act 1924 Oil Agreement Act 1926	No. 7, 1924 No. 14, 1926	

⁽a) See footnote (d), supra p. xi. (b) The Commonwealth Public Service Act 1922-1934 comprises Act No. 21, 1922, as amended by Acts No. 48, 1924, No. 41, 1928, No. 19, 1930, No. 21, 1931, No. 72, 1932, No. 38, 1933, No. 45, 1934, and No. 46, 1934.

XXXIII

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Act.		
Constitution.	Short Title.	Reference.	Sections of Act.
Section 51 (xxxix.)	Matters incidental to Execution of Powers— continued.	No. 40, 1926	1
	Canned Fruits Export Control Act	No. 47, 1930 No. 9, 1933 No. 45, 1934 No. 4, 1935	}
	Development and Migration Act 1926- 1930 Australian Institute of Anatomy Agree-	No. 29, 1926 No. 11, 1930 No. 49, 1924	\
	ment Act 1924-1933 Peace Officers Act 1925 Precious Metals Prospecting Act 1926.	No. 44, 1931 No. 12, 1933 No. 12, 1925 No. 4, 1926	}
	Petroleum Prospecting Act 1926-1927	No. 5, 1926 No. 31, 1926 No. 16, 1927	}
f k	Science and Industry Endowment Act 1926 Science and Industry Research Act 1920-1926 Fresh Fruits Overseas Marketing Act	No. 21, 1926 No. 22, 1920 No. 20, 1926 No. 22, 1927	}
1	1927 Pearl-shell Overseas Marketing Act 1927 Wire and Wire Netting Act 1927–1932	No. 13, 1927 No. 15, 1927 No. 55, 1932	}
	Officers' Rights Declaration Act 1928 Wme Overseas Marketing Act 1929- 1934	No. 16, 1928 No. 6, 1929 No. 48, 1930 No. 45, 1934	}
	Economic Research Act 1929	No. 9, 1929 No. 5, 1930))
	Solar Observatory Fund Act 1930–1932	No. 4, 1931 No. 28, 1932 No. 16, 1930	{
	Forestry Bureau Act 1930–1932 { Commonwealth Employees' Compensation Act 1930	No. 27, 1932 No. 24, 1930	\$
	London Naval Treaty Act 1930	No. 44, 1930 No. 10, 1931 No. 47, 1931 No. 35, 1932	
	Financial Emergency Act 1931-1935	No. 6, 1933 No. 17, 1933 No. 16, 1934 No. 35, 1935	}
	Financial Emergency (State Legislation) Act 1932	No. 36, 1935 No. 11, 1932	7
	Financial Relief Act 1932–1935	No. 64, 1932 No. 17, 1933 No. 47, 1935 No. 16, 1934	}
	Financial Relief Act 1934–1935	No. 36, 1935 No. 47, 1935 No. 57, 1935	

XXXIV

Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	t	
Constitution	Short Title.	Reference	Sections of Act.
Section 51	Matters incidental to Execution of Powers—		
(xxxix.)	continued. Queensland Meat Inspection Agreement	No. 15, 1932	
	Act 1932 Sugar Agreement Act 1932	No 74, 1932	
	Silver Agreement Act 1933 Cockatoo Island Dockyard Agreement Act 1933	No. 62, 1933 No. 73, 1933	
	Fruit Growers' Relief Act 1933 Migrant Settlement Agreement Act 1933	No. 39, 1933 No. 32, 1933	
	Petrol Commission Act 1933	No. 2, 1933	
	Transferred Officers' Pensions Act 1934	No. 34, 1934	
	Statute Law Revision Act 1934	No 45, 1934	
	Northern Australia Survey Act 1934	No. 61, 1934	
	Carriage by Air Act 1935	No. 18, 1935 No. 48, 1935	
	Sanctions Act 1935 Meat Export Control Act 1935	No. 48, 1935 No. 52, 1935	
	Sugar Agreement Act 1935 .	No 59, 1935	
Section 52	Seat of Government, and Places Acquired for Public Purposes.	_	
	Property for Public Purposes Acquisition Act 1901	No. 13, 1901	47, 51, 60,
	Seat of Government Act 1904	No. 7, 1904 No. 13, 1906	2
	T 1 A 1000 1004	No. 12, 1916	58, 62, 63,
	Lands Acquisition Act 1906–1934	No. 5, 1932	64, 66
	United Kingdom and Australia Trade Agreement Act 1932	No. 45, 1934 No. 57, 1932	J
	Seat of Government Act 1908	No 24, 1908	
	Seat of Government Acceptance Act 1909		
	Seat of Governmens Acceptance Act 1922	No. 28, 1922	
	Seet of Community (Administration)	No 25, 1910	
	Seat of Government (Administration) Act 1910–1933	No. 2, 1930 No. 9, 1931	}
	ACU 1510-1055	No. 9, 1931 No. 4, 1933	
	Lands Acquisition Act 1912	No. 39, 1912)
		No. 8, 1924)
	Seat of Government (Administration)	No. 32, 1926	Į
	Act 1924-1929	No. 44, 1928	
	>	No. 29, 1929 No. 2, 1930	K
	Seat of Government (Administration) Act 1930-1935	No. 67, 1934	}
Section 52	Seat of Government Railway Act 1928 Matters relating to Transferred Depart-	No. 39, 1935 No. 40, 1928)
(1i.)	ments.		
	Customs Act 1901-1935	(a)	
	Beer Excise Act,1901-1928	No. 8 1001	2
		No. 34, 1918	
	Distillation Act 1901-1934 .	No. 9, 1923	}
		No 3, 1931	
	Į	No. 8, 1934	Į
	ı (i	No. 9, 1901	1
		Mr. 80 1010	
	Excise Act 1901-1934 {	No. 26, 1918 No. 8, 1923	}

(a) See footnote (c), supra p x

(b) See footnote (c), supra p. xii.



Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Act			
Constitution	Short Title	Reierence	Sections of Act	
Section 52	Matters relating to Transferred Depart- ments—continued.			
(11.)	Post and Telegraph Act 1901-1934 Commonwealth Public Service Act 1902- 1918	(a) (b)	60-62	
	Post and Telegraph Rates Act 1902–1931 Defence Act 1903–1934	(c) (d)		
	Wireless Telegraphy Act 1905-1919	No. 8, 1905 No. 33, 1915 No. 4, 1919	}	
	Spirits Act 1906–1935	(e)	-	
	Spirits Act 1933 .	No. 23, 1933		
	Spirito 1100 1000 .	No. 30, 1910	1	
		No. 16. 1911		
	Naval Defence Act 1910-1934	No. 10. 1911 No. 21, 1912	}	
]	No. 45, 1918	1	
	Purchase Telephone I mes Acquistion		ر ا	
	Purchase Telephone Lines Acquisition Act 1911	No 9, 1911		
	Pacific Cable Act 1911 .	No. 25, 1911	44, 45, 48	
	Commonwealth Public Service Act 1922-1934	(f)	,	
	Statistical Bureau (Tasmania) Act 1924	No 48, 1924		
	Australian Broadcasting Commission Act 1932	No. 14, 1932		
	THE EXECUTIVE GOVERNMENT			
65	NUMBER OF MINISTERS OF STATE-			
	Ministers of State Act 1915	No. 18, 1915		
	Ministers of State Act 1917	No. 40, 1917		
	Mmisters of State Act 1935	No 35, 1935		
66	SALARIES OF MINISTERS OF STATE-	,		
•	Ministers of State Act 1915	No. 18, 1915		
	Ministers of State Act 1917	No. 40, 1917		
	Ministers of State Act 1935	No. 35, 1935		
67		140. 30, 1930		
07	Appointment of Officers.* Commonwealth Public Service Act 1902- 1918	(g)	<u> </u>	
	Quarantine Act 1908-1924	(h)	9, 9A	
		No 9, 1905	٦ ٥,٥	
		No. 32, 1920		
	Papua Act 1905-1934	No 25, 1924	}	
		No. 45, 1934		
	Defence Act 1903-1934	(1)	63	
	High Commissioner Act 1909		8, 9	
	High Commissione Act 1932	No. 34, 1932	1	
	Northern Territory Acceptance Act 1910–1919	No. 20, 1910 No. 24, 1919	9, 11, 12†	
	1010-1010	No. 27, 1910	l<	
		No. 19, 1926	!	
	Northern Territory (Administration)	No. 5, 1931	17, 17A, 19	
	Act 1910–1933	No. 7, 1931 No. 18, 1933		
	Kalgoorlie to Port Augusta Kailway	No. 7, 1911	K	
	Act 1911–1912		\> 16	
	Commonwealth Bank Act 1911-1932	1	16 257	
	Commonwealon Dank Act 1411-1952	(j)	16, 35F	

⁽a) See footnote (a), supra p xxII (f) See footnote (b), supra p xxXII.
(b) See footnote (b), supra p xxX (q) See footnote (b), supra p xxXX (c) See footnote (b), supra p xXII.
(c) See footnote (b), supra p xXII.
(d) See footnote (b), supra p xXII.
(e) See footnote (a), supra p xXII.
(i) See footnote (b), supra p xXII.
(i) See footnote (b), supra p xXII.
(i) See footnote (b), supra p xXII.
(ii) See footnote (b), supra p xXII.
(iii) See footnote (b), supra p xXIII.
(iii) See footnote (b

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Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	t.	
Constitution	Short Title.	Reference	Sections of Act
Section 67	Appointment of Officers—continued. Navigation Act 1912-1935	(a)	330
	Norfolk Island Act 1913–1935	No. 15, 1913 No. 14, 1935	7, 9
	Pine Creek to Katherine River Railway Act 1913	No. 21, 1913	14
	River Murray Waters Act 1915-1934	No. 46, 1915 No. 20, 1923	}
	Commonwealth Public Service (Acting Commissioner) Act 1916	No. 11, 1934 No. 9, 1916	ر
	Commonwealth Railways Act 1917-	No. 31, 1917 No. 11, 1925	} 46-51
	Defence (Civil Employment) Act 1918- { 1922	No. 17, 1918 No. 6, 1922	} 10, 15
	War Service Homes Act 1918–1935 War Service Homes Commissioner Validating Act 1921	No. 4, 1921	15
	during Act 1921	No. 25, 1920	η _
	New Gumea Act 1920-1935	No. 15, 1926 No. 51, 1932	12
	Australian Soldiers' Repatriation Act	No. 63, 1935 (c)	J
	Commonwealth Public Service Act 1922–1934	(d)	
	1	No. 33, 1922 No. 45, 1924]]
	Superannuation Act 1922-1934	No. 22, 1930	73
		No. 10, 1931	
	Commonwealth Shipping Act 1923	No. 45, 1934 No. 3, 1923] 11
	Northern Territory Railway Extension Act 1923	No. 11, 1923	7
		No. 8, 1924 No. 32, 1926	
	Seat of Government (Administration) Act 1924–1929	No. 44, 1928	} 13
	ACC 1924-1929	No. 29, 1929	1
	Dairy Produce Export Control Act	No. 38, 1924 No. 45, 1934	} 13
	1924–1934	No. 40, 1924	1
	'Dried Fruits Export Control Act	No. 46, 1930	} 12
	1924-1935	No. 45, 1934 No. 3, 1935	
	Meat Industry Encouragement Act 1924	No. 55, 1924	9
	Peace Officers Act 1925	No. 12, 1925	2, 8
	Oodnadatta to Alice Springs Railway Act 1926 Northern Australia Act 1926	No. 3, 1926 No. 16, 1926	8
		No. 22, 1920	14
	Science and Industry Research Act	No. 20, 1926	} 14, 14 _A
	Development and Migration Act 1926- 1930	No. 29, 1926 No. 11, 1930 No. 40, 1926	} 15
	Conned Durity Breat Control	No. 40, 1926 No. 47, 1930	1
	Canned Fruits Export Control Act	'No. 9, 1933	·} · 12
	1000-1000	No. 45, 1934	
	L U	No 4, 1935	<u></u> .

⁽a) See footnote (c), supra p. x1.
(b) See footnote (b), supra p. xxiii.



⁽c) See footnote (d), supra p xxiii.
(d) See footnote (d), supra p xxxii.

xxxvii Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of Constitution.	Commonwealth A	et.	
Constitution.	Short Title	Reference	Sections of Act.
Section 67	Appointment of Officers—continued. Pearl-shell Overseas Marketing Act 1927 Fresh Fruits Overseas Marketing Act 1927 Officers' Rights Declaration Act 1928— 1933 Commonwealth Conciliation and Arbitration Act 1904—1934	No. 13, 1927 No. 22, 1927 No. 16, 1928 No. 19, 1933 (a)	12 13 } 18c, 34, 50a
	Wine Overseas Marketing Act $\left\{egin{array}{ll} ext{Wine Overseas} & ext{Marketing Act} \ ext{Economic Research Act 1929} & \dots \end{array}\right.$	No. 6, 1929 No. 48, 1930 No. 45, 1934 No. 9, 1929] 13 5, 9
	Forestry Bureau Act 1930-1932	No. 16, 1930	3
	Trade Commissioners Act 1933 Northern Australia Survey Act 1934 Meat Export Control Act 1935	No. 27, 1932 No. 74, 1933 No. 61, 1934 No. 52, 1935	10 11 15
71	THE JUDICATURE. Federal Courts, &c. Judiciary Act 1903-1934 Commonwealth Conciliation and Arbitration Act 1904-1934	(b) (a)	4 11, 12
72	Bankruptcy Act 1924-1933 Seat of Government Supreme Court Act 1933-1935	(c) No. 34, 1933 No. 27, 1935	184
	Justices. Judiciary Act 1903–1934	(b) (a)	5-9, 47, 48A 14, 14B
73	Chief Justice's Pension Act 1918 Bankruptcy Act 1924–1933 Appellate Jurisdiction of High Court.	No. 38, 1918 (c)	18c, 18d
	Judiciary Act 1903-1934	(b)	34–37, 39, 72–77
	Commonwealth Conciliation and Arbitration Act 1904–1934	(a)	21AA
	Copyright Act 1905	No. 25, 1905 No. 4, 1906 No. 14, 1912 No. 53, 1932	73 (2)
	Designs Act 1906–1934 {	No. 70, 1932 No. 36, 1933 No. 42, 1934	39 (3)
	Land Tax Assessment Act 1910-1934	No. 45, 1934 (d)	J 44м (10)
	Copyright Act 1912-1935	No. 20, 1912 No. 68, 1933 No. 17, 1935	37 (2)
	Estate Duty Assessment Act 1914–1928 Income Tax Assessment Act 1922-1934	(e)	28 51A (10), 51B 62 (3c) (3g)
	War-time Profits Tax Assessment Act { 1917-1918	No. 33, 1917 No. 40, 1918	29 (5)
	Bankruptcy Act 1924—1933 Seat of Government Supreme Court Act 1933—1935	(c) No. 34, 1933 No. 27, 1935	26 } 51, 52

⁽a) See footnote (a), supra, p. xxix.
(b) See footnote (a), supra p. xxxi.
(c) See footnote (a), supra p. xxv

⁽d) See footnote (b), supra p. xiii.
(e) See footnote (c), supra p. xiii.
(f) See footnote (d), supra p. xiii.

xxxviii Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	t	
Constitution	Short Titie	Reference	Sections of Act
Section 76	Conferring Original Jurisdiction on High Court. In matters arising under the Constitu- tion or involving its interpretation. Judiciary Act 1903–1934	(a)	23, 30, 30A, 8
Section 76 (11)	In matters arising under laws made by the Parliament. Customs Act 1901–1935	(<i>b</i>)	221, 227. 245
	Excise Act 1901-1934 Post and Telegraph Act 1901-1934	No. 9, 1901 No. 26, 1918 No. 8, 1923 No. 44, 1934 (c)	109, 115, 134 29, 43
	Property for Public Purposes Acquisition Act 1901	No. 13. 1901	$ \begin{cases} 12-17, 22, \\ 25, 26, 38, \\ 41, 43, 52 \end{cases} $
	Commonwealth Electoral Act 1902-1911 Judiciary Act 1903-1934 Defence Act 1903-1934	(d) (a) (e)	91 (b) 47, 58, 67
	Patents Act 1903-1935	(f)	75-77, 84 85A-87A, 111
	Commonwealth Conciliation and Arbi tration Act 1904–1934	(g)	21AA, 31 (8, 9, 16, 2
	Trade Marks Act 1905-1934	(h)	27, 28, 3 34, 35, 4 45, 59, 71 72, 95
	Australian Industries Preservation Act 1906–1930	(1)	10, 11, 13, 19, 21, 22, 26
	Referendum (Constitution Alteration) Act 1906-1928	(j)	27, 29, 31
	Lands Acquisition Act 1906–1934	No. 13, 1906 No. 12, 1916 No. 5, 1932 No. 45, 1934	10, 11, 24, 36–39, 45, 46, 50, 54, 56, 59
	Land Tax Assessment Act 1910-1934 Lands Acquisition Act 1912 Navigation Act 1912-1935	No. $39, 1912$	383, 385
	Trading with the Enemy Act 1914-	No. 9, 1914 No. 17, 1914 No. 20, 1916 No. 23, 1921	8, 9c-9d, 9h, 9m, 9p, 9s
	Estate Duty Assessment Act 1914–1928	No. 22, 1914 No. 29, 1916 No. 34, 1922 No. 47, 1928	24-27 39-41



⁽a) See footnote (a), supra p. xxxi.
(b) See footnote (c), supra p x
(c) See footnote (a), supra p. xxii.
(d) See footnote (a), supra p. xxii.
(e) See footnote (h), supra p. xxii.
(f) See footnote (c), supra p. xxv.

⁽g) See footnote (a), supra p. xxix.
(h) See footnote (d), supra p. xxv.
(s) See footnote (d), supra p. x
(s) See footnote (d), supra p. x
(s) See footnote (e), supra p. xxii.
(k) See footnote (d), supra p. xii.
(l) See footnote (c), supra p. xi.

xxxix. TABLE OF COMMONWEALTH LEGISLATION FROM 1901 TO 1935, ETC.—continued.

Section of	Commonwealth Ac	ŧŧ	
Constitution.	Shorf Title.	Reference	Sections of Act
Section 76	In matters arising under laws made by the Parliament—continued	No. 46, 1915 No. 20, 1923] 11
	River Murray Waters Act 1915-1934 { Income Tax Assessment Act 1922-1934	No. 11, 1934 (a)	50-51B, 53, 62 (3c) (3c), 74
	Patents Act (Partial Suspension) Act 1916 War-time Profits Tax Assessment Act 1917-1918	No. 13, 1916 No. 33, 1917 No. 40, 1918	28, 29, 31
	Commónwealth Electoral Act 1918–1934 Industrial Peace Acts 1920 . {	(b) No. 21, 1920 No. 55, 1920 No. 33, 1922 No. 45, 1924	183, 203 27, 28
	Superannuation Act 1922-1934 Bankruptey Act 1924-1933	No. 22, 1930 No. 10, 1931 No. 45, 1934 (c)	20 (3)
<i>(</i>)	Sales Tax Assessment Act (No 1) 1930- 1935	No. 25, 1930 No. 62, 1930 No. 25, 1931 No. 39, 1932 No. 64, 1932 No. 17, 1933 No. 47, 1933 No. 16, 1934 No. 29, 1934 No. 8, 1935 No. 45, 1935	42 (6), 54
(111.) Section 77 (1.)	In matters of Admiralty and Maritime Jurisdiction. Judiciary Act 1903-1934 Jurisdiction of Federal Courts other than High Court. Commonwealth Conciliation and Arbitation Act 1904-1934	(d) (e)	30, 30a
(u.)	Bankruptcy Act 1924-1933 Seat of Government Supreme Court . Act 1933-1935 Excluding Jurisdiction of State Courts.	(c) No. 34, 1933 No. 27, 1935	}
(m.)	Judiciary Act 1903-1934	(d) (f)	38, 38A, 39, 57, 59 221, 227,
	Excise Act 1901-1923 . Post and Telegraph Act 1901-1934 Property for Public Purposes Acquisition Act 1901	No. 9, 1901 No. 26, 1918 No 8, 1923 (g) No. 13, 1901	245 109, 115, 134 29, 43 59

⁽a) See footnote (d), supra p xiii.
(b) See footnote (b), supra p. vii.
(c) See footnote (a), supra p. xxv.
(d) See footnote (a), supra p. xxxi

⁽e) See footnote (a), supra p. xxix.
(f) See footnote (c), supra p. x.
(g) See footnote (a), supra p. xxii

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Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	et.	
Constitution.	Short Title.	Reference.	Sections of Act.
Section 77 (iii.)	Investing State Courts with Federal Jurisdiction—continued.		
	Punishment of Offences Act 1901 Commonwealth Electoral Act 1902–1911 Claims against the Commonwealth Act 1902 Judiciary Act 1903–1934 Defence Act 1903–1934	No. 14, 1901 (a) No. 21, 4902 (b) (c)	193 17, 39 (2), 68 91 (30, 47, 58,
	Patents Act 1903–1935	(d)	67, 75-77, 84, 85a, 86, 86a, 87, 87a, 111
•	Commonwealth Conciliation and Arbi- tration Act 1904–1934	(e)	44-46, 89 (34, 35,
	Trade Marks Act 1905-1934 Copyright Act 1905	(f) No. 25, 1905	44, 45, 59, 71, 72, 95 60, 73 (1)
	Designs Act 1906–1934 $\dots egin{dcases} \left\{ ight. $	No. 4, 1906 No. 14, 1912 No. 53, 1932 No. 70, 1932 No. 36, 1933 No. 42, 1934 No. 45, 1934	25, 39 (1)
	Lands Acquisition Act 1906–1934 $igg\{$	No. 16, 1906 No. 12, 1916 No. 5, 1932 No. 45, 1934	10, 11, 24, 36–39, 45, 46, 50, 54, 56
	Land Tax Assessment Act 1910-1934	(g)	44x-44m
	Copyright Act 1912-1935 {	No. 20, 1912 No. 68, 1933	16, 20, 37(1)
	Navigation Act 1912-1935	(h)	91, 92, 318- 320, 328, 380-383, 385, 395
	Estate Duty Assessment Act 1914–1928	No. 22, 1914 No. 29, 1916 No. 34, 1922 No. 47, 1928	24, 39-41
	Income Tax Assessment Act 1922-1934	(i)	50, 51A, 51B, 62 (c) (g), 74
	Patents Act (Partial Suspension) Act 1916 War-time Profits Tax Assessment Act { 1917-1918 Commonwealth Electoral Act 1918-1934	No. 13, 1916 No. 33, 1917 No. 40, 1918 (j)	} 28, 29 58, 184



⁽a) See footnote (a), supra p. viii.
(b) See footnote (a), supra p. xxxi.
(c) See footnote (h), supra p. xxii.
(d) See footnote (d), supra p.xxv.
(e) See footnote (a), supra p. xxix.

⁽f) See footnote (d), supra p. xxv. (g) See footnote (b), supra p. xiii. (h) See footnote (c), supra p. xi. (s) See footnote (d), supra p. xiii. (j) See footnote (b), supra p. vii.

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TABLE OF COMMONWEALTH LEGISLATION FROM 1901 to 1935, ETC.—continued.

Section of	Commonwealth Act	i .	
Constitution.	Short Title.	Reference.	Sections of Act.
Section 77 (iii.)	Investing State Courts with Federal Jurisdiction—continued. Bankruptcy Act 1924–1933	(a) No. 25, 1930 No. 62, 1930	18, 19, 20
	Sales Tax Assessment Act (No. 1) 1930{ 1935	No. 25, 1931 No. 25, 1931 No. 39, 1932 No. 64, 1932 No. 17, 1933 No. 47, 1933 No. 16, 1934 No. 29, 1934 No. 8, 1935 No. 45, 1935	54
Section 78	Conferring Rights to Proceed against Commonwealth or State. Claims against the Commonwealth Act 1902 Judiciary Act 1903–1934 Arbitration (Public Service) Act 1911	No. 21, 1902 (b) No. 11, 1911 No. 28, 1920	56–67
79	Arbitration (Public Service) Act 1920-{ 1934 Number of Judges to exercise Federal Jurisdiction.	No. 1, 1928 No. 25, 1929	}
80 ·	Judiciary Act 1903–1934 Place of Trial on Indictment. Judiciary Act 1903–1934	(b) (b)	15–23, 89 70
81	FINANCE AND TRADE. Appropriation of Moneys. Appropriation and Supply Acts Andit Act 1901–1934 Surplus Revenue Act 1908 Trust Fund Advances Act 1910 Trust Fund Advances Act 1910 (No 2) Belgian Grant Act 1914 Funding Arrangements Act 1921 Loans Redemption and Conversion Act 1921 Financial Agreement Act 1928	(c) No. 15, 1908 No. 2, 1910 No. 15, 1910 No. 8, 1914 No. 15, 1921 No. 18, 1921	36–37, 62▲ 5 3 5
83	Payment of Moneys.		
	Audit Act 1901–1934	(c)	31-37, 62A
84	Transferred Officers. Commonwealth Public Service Act 1902— 1918	(d)	60-62
	Commonwealth Public Service Act 1922-1934 Northern, Territory Acceptance Act	(e) No. 20, 1910	4, 45, 48
	Northern Australia Act 1926 Transferred Officers' Pensions Act 1934	No. 24, 1919 No. 16, 1926 No. 34, 1934	39 (3)

⁽d) See footnote (b), supra p. xxx.(e) See footnote (b), supra p. xxxii.

⁽a) See footnote (a), supra p. xxv. (d) See footnote (a), supra p. xxxi. (e) See footnote (a), supra p. xxx. (e) See footnote (a), supra p. xx. * This section has been repealed.

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	Commonwealth Ac		
Section of Constitution.	Short Title.	Reference.	Sections of Act
Section 85	Transferred Property. Property for Public Purposes Acquisition	No. 13, 1901	47, 60
	Act 1901	No. 13, 1906	} 64
	Lands Acquisition Act 1906-1916	No. 12, 1916 No. 39, 1912	
	Lands Acquisition Act 1912 Naval Properties Transfer Act 1925 Financial Agreement Act 1928 Financial Agreement Validation Act	No. 19, 1925 No. 5, 1928 No. 4, 1929	
87	1929 Braddon Clause. Surplus Revenue Act 1910	No. 8, 1910 No. 4, 1927	11
	States Grants Act 1927-1934	No. 45, 1934	: 5
00	Financial Agreement Act 192 Financial Agreement Validation Act 192 Imposition of Uniform Duties 0	f	
88	Customs.	. No. 14, 1902	2
00	Custome Tariff 1902 Inter-State Trade.	(a)	272*
92	Customs Act 1901–1935 Customs (Inter-State Accounts) Act 19 Customs (Inter-State Accounts) Act 1912		0
	AT State Commission Acc	No. 33, 191	2
	Navigation Act 1912-1935		2 }
	Colonial Light Dues Concession	No. 15, 193	5 4 J
	Colonial Light Dues Appropriation A		32
93	Crediting of Revenue and Debiting	07	
00	Expenditure. Customs Act 1901-1935	(a)	273*
	Camplus Revenue Act 1900	No. 15, 19 No. 18, 19	009
	Glorg Revenue, ACt 1900	No. 8, 19	910
	Surplus Revenue Act 1910 Surplus Revenue Act 1910 Act 1	910 No. 9, 19	910
94		No. 15, 19	908
<i>J</i> -	Complied Reventle ACU 1000	No. 18, 1	909
	Surplus Revenue Act 1909 Surplus Revenue Act 1910	No. 8, 1 No. 4, 1	927
	States Grants Act 1927–1934	No. 45, 1	934 }
9	5‡ Western Australian Special Tariff. Customs Act 1901–1935	(a) No. 9, 1	169*
	Excise Act 1901-1923	\ No. 26, 1	1918

⁽a) See footnote (c), supra p. x.
(b) See footnote (c), supra p. xi.

* This section has been repealed.

† See footnote †, infra p. xilv.

† The following Acts were passed by the Parliament of Western Australia in pursuance of the powers conferred by section 95:—

conferred by section 95 :-	
Title	Year and Number.
An Act to impose certain Customs Duties subject to the provisions of the Commonwealth of Australia Constitution Act An Act to impose certain Customs Duties in accordance with the provisions of the Commonwealth of Australia Constitution Act	64 Vic. No. 14 1 Edw. VII. No. 3



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Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	et			
Constitution	Short Title	Reference	Sections of Act.		
Section 96	Financial Assistance to States.				
	Surplus Revenue Act 1910 Tasmania Grant Act 1912 Tasmania Grant Act 1913 Tasmania Grant Act 1922	No 8, 1910 No. 13, 1912 No. 22, 1913 No 12, 1922	5		
	Main Roads Development Act 1923- 1925	No. 2, 1923 No. 5, 1924 No. 17, 1925	}		
	Tasmania Crant Act 1923 Tasmania Grant Act 1924 Federal Aid Roads Act 1926 Western Australia Grant Act 1926	No 13, 1923 No. 27, 1924 No 46, 1926 No. 10, 1926	,		
	States Grants Act 1927-1934 { States' Grants Act 1935 .	No. 4, 1927 No. 45, 1934 No. 46, 1935	}		
	Financial Agreement Act 1928 Tasmania Grant Act 1928 Tasmania Sinking Fund Agreement Act 1928	No. 5, 1928 No. 32, 1928 No. 43, 1928			
	Financial Agreement Validation Act 1929	No. 4, 1929			
	Tasmania Grant Act 1929	No. 23, 1929 No 38, 1932 No. 26, 1929 No. 14, 1930			
	Gold Mines) Act 1930 South Australia Grant Act 1930 South Australia Grant Act 1931 South Australia Grant Act 1932 Western Australia Grant Act 1931	No. 57, 1930 No. 19, 1931 No 36, 1932 No. 20, 1931			
	Western Australia Grant Act 1932 Federal Aid Roads Act 1931 Loan (Unemployment Relief Works) Acts 1932	No 37, 1932 No 22, 1931 No. 9, 1932 No. 23, 1932	}		
	Commonwealth Grants Commission Act	No. 3, 1933			
	1933 Fruit Growers' Relief Act 1933	No. 39, 1933 No. 42, 1933	ז		
	Wheat Growers Relief Act 1933-1934 South Australia Grant Act 1933 Tasmania Grant Act 1933	No. 10, 1934 No. 70, 1933 No 72, 1933	 }		
	Western Australia Grant Act 1933 Mandarin Growers Relief Act 1934 South Australia Grant Act 1934 Western Australia Grant Act 1934	No. 71, 1933 No. 27, 1934 No. 35, 1934 No. 36, 1934 No. 37, 1934			
	Tasmania Grant Act 1934 States Grants Act 1934 Wheat Growers Relief Act (No. 2) 1934	No 38, 1934 No 59, 1934 No 59, 1934			
	Wheat Growers Relief Act 1934-1935	No. 11, 1935 No. 55, 1935	}		
	South Australia Grant Act 1935 Western Australia Grant Act 1935 Tasmania Grant Act 1935 Primary Producers Act 1935 Tasmania Grant (Flour Tax) Act 1935	No. 42, 1935 No. 43, 1935 No. 44, 1935 No. 47, 1935 No. 73, 1935			

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Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth Ac	:t	
Constitution.	Short Title.	Reference.	Sections of Act.
Section 97	Audit. Audit Act 1901~1934	(a)	
98	Navigation and Shipping. Sea-Carriage of Goods Act 1904 *Seamen's Compensation Act 1909 Seamen's Compensation Act 1911 Lighthouses Act 1911–1919 †Inter-State Commission Act 1912 Navigation Act 1912–1935 River Murray Waters Act 1915–1934 Sea-Carriage of Goods Act 1924 Colonial Light Dues Collection Act 1932–1934	No. 14, 1904 No. 29, 1909 No. 13, 1911 No. 14, 1911 No. 6, 1915 No. 33, 1912 (b) No. 46, 1915 No. 20, 1923 No. 11, 1934 No. 22, 1924 No. 65, 1932 No. 15, 1934	} } }
	Colonial Light Dues (Rates) Act 1932 Colonial Light Dues Appropriation Act 1932	No. 66, 1932 No. 67, 1932	
100	Use of Waters. River Murray Waters Act 1915-1934	No. 46, 1915 No. 20, 1923 No. 11, 1934	}
101	Inter-State Commission. †Inter-State Commission Act 1912	No. 33, 1912)
102	State Railway Preferences. †Inter-State Commission Act 1912	No. 33, 1912	
103	Appointment and Remuneration of Commissioners. Inter-State Commission Act 1912	No. 33, 1912	4-15
104	Railway Rates Necessary for Develop- ment.		
105	Inter-State Commission Act 1912 Taking over State Debts. Constitution Alteration (State Debts)	No. 33, 1912 No. 3, 1910	20
	1909 Constitution Alteration (State Debts) 1928	No. 1, 1929	
105A	Agreement with respect to State Debts.		
	Constitution Alteration (State Debts) 1928 Debt Conversion Agreement Act 1931 Debt Conversion Agreement Act (No. 2)	No. 1, 1929 No. 14, 1931 No. 52, 1931	
	1931 Commonwealth Debt Conversion Act	No. 18, 1931	
	1931 Commonwealth Debt Conversion Act (No. 2) 1931	No. 1, 1932	
	Financial Agreements (Commonwealth Liability) Act 1932	No. 2, 1932	

⁽a) See footnote (a), supra p. xx.

* The Scamer's Compensation Act 1909 was declared by the High Court to be invalid. See Owners of the s.s. Kaitiva v. Wilson, 11 C.L.R. 689; 17 A.L.R. 410. The Act has since been repealed by the Scamer's Compensation Act 1911.

† Part V. (8s. 23-44) of the Inter-State Commission Act 1912 was declared by the High Court to be invalid. The Commonwealth v. The State of New South Wales, 20 C.L.R. 54; 21 A.L.R. 128.



Table of Commonwealth Legislation from 1901 to 1935, etc.—continued.

Section of	Commonwealth A	et	
Constitution.	Short Title	Reference	Sections of Act
Section 105A	Agreement with respect to State Debts —continued.	N. 0 1000	
	*Financial Agreements Enforcement { Acts 1932	No. 3, 1932 No. 7, 1932 No. 8, 1932 No. 10, 1932 No. 11, 1932	
	Financial Emergency (State Legislation) Act 1932 Emergency Legislation Suspension Act 1932	No. 13, 1932	
	THE STATES.		
118	Recognition of State Laws, &c.		
	State and Territorial Laws and Records { Recognition Act 1901–1928	No. 5, 1901 No. 15, 1928	}
119	Protection of States from Invasion and Violence. Defence Act 1903–1934	(a)	51
122	TERRITORIES. Government of Territories. Service and Execution of Process Act 1901-1934 Defence Act 1903-1934 Judiciary Act 1903-1934	(b) (a) (c)	49 11, 30b, 34a
	Patents Act 1903-1935	(d)	36 (g) 4A, 4B
	Wireless Telegraphy Act 1905–1919	No. 8, 1905 No. 33, 1915 No. 4, 1919 No. 9, 1905 No. 32, 1920 No. 25, 1924	2
	Papua Act 1905–1934 Trade Marks Act 1905–1934	No. 45, 1934 (e)	9A, 9B
		No. 4, 1906 No. 14, 1912 No. 53, 1932	
	Designs Act 1906–1934 {	No. 70, 1932 No. 36, 1933 No. 42, 1934 No. 45, 1934	\ 4A
	Seat of Government Acceptance Act	No. 23, 1909	
	Northern Territory Acceptance Act 1910-1919	No. 20, 1910 No. 24, 1919 No. 25, 1910	}
	Seat of Government (Administration) Act 1910–1933	No. 2, 1930 No. 9, 1931 No. 4, 1933	}

⁽a) See footnote (h), supra p. xxii.
(b) See footnote (a), supra p. vii
(c) See footnote (a), supra p. xxxi
(c) See footnote (a), supra p. xxxi

* As to the validity of the Financial Agreements Enforcement Act 1932 (No 3 of 1932), see decisions of the High Court in State of New South Wales v Commonwealth and others, 46 C.L.R. 155 and 246; 38 A.L.R. 245

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⁽a) See footnote (a), supra p. xxx1. (b) See footnote (a), supra p. xxix. (c) See footnote (e), supra p. xxii.

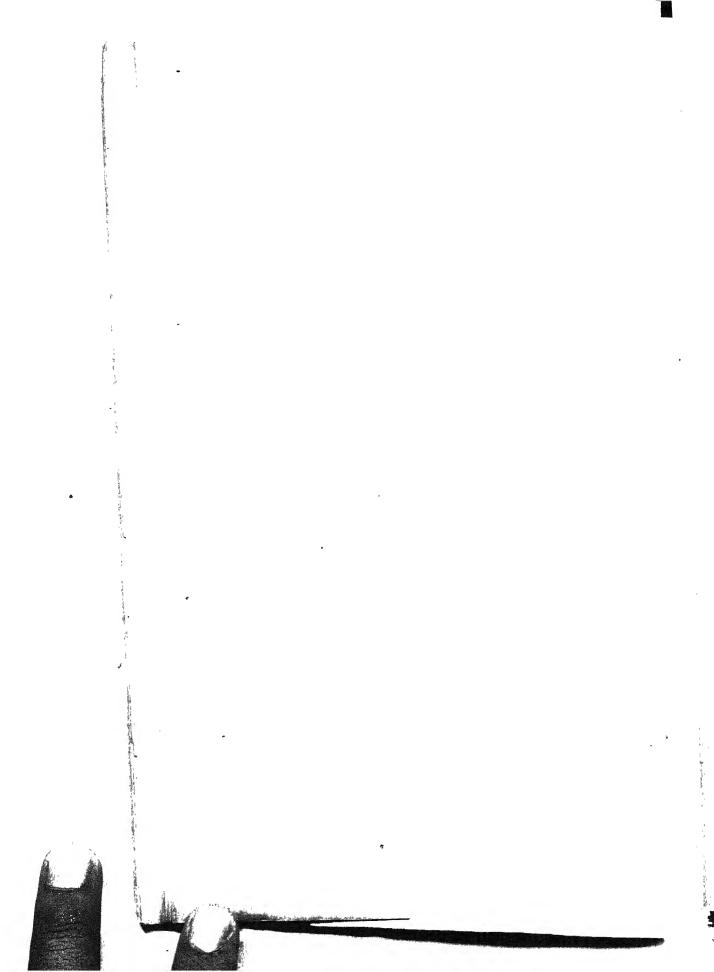


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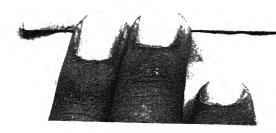
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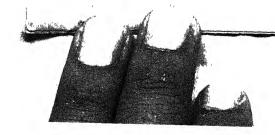
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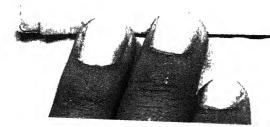
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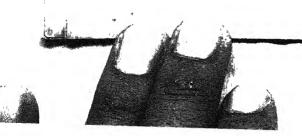
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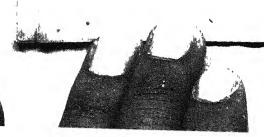
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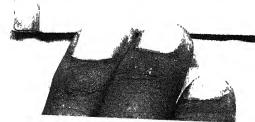


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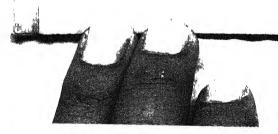
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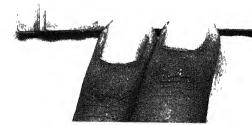


			
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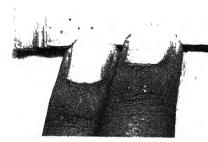
		
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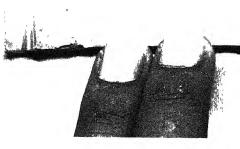
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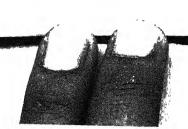


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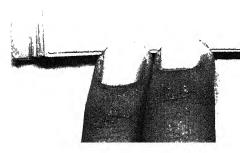
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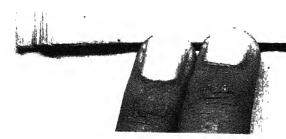
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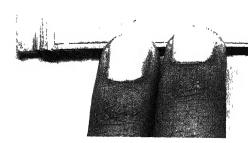
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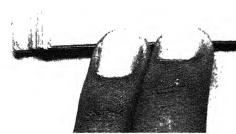
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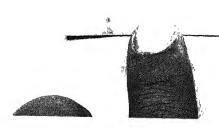
		
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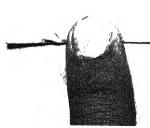
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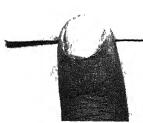
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Note.—References in the second column to sections 51, 52, 75, 76 and 77 (simpliciter) are to the words of the section preceding the first placitum, cases upon the various placita contained in those sections being indicated by the citation of the particular placita numbers involved. The letters "Sup." in the second column indicate the supplementary notes of cases appearing on pages 107-113, inclusive.

TABLE OF ABBBEVIATIONS, ETC.

Abbreviation.	Explanation		Pages (of Law Reports) to which Cases have been noted in footnotes to the Constitution.
A.B.C	Australian Bankruptcy Cases		8 A.B.C. 240 [1936] A.C. 360
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A.L.T.		• •	49 A.L.T. (to end)
C.A.R	Commonwealth Arbitration Reports		32 C.A.R. (to end)
C.L.R	Commonwealth Law Reports		55 C.L.R. 125
Q.W.N	Queensland Weekly Notes		1936 Q.W.N. 33
S.A.L.R	South Australian Law Reports .		1920 S.A.L.R. (to end)
S.A.S.R	South Australian State Reports .		1935 S.A.S.R. (to end)
S.R., N.S.W.	State Reports, New South Wales		36 S.R., N.S.W. 301
St.R.Qd	State Reports, Queensland		1936 St.R.Qd. 256
Tas.L.R	Tasmanian Law Reports		1933 Tas.L.R. (to end)
V.L.R	Victorian Law Reports		1936 V.L.R. 252
W.A.L.R	Western Australian Law Reports		37 W.A.L.R. (to end)

In addition to cases from the foregoing Reports, a few cases have been taken from the Queensland Justice of the Peace Reports (Q.J.P.R.); the Weekly Notes, New South Wales (W.N., N.S.W.); the Workers Compensation Reports, New South Wales (W.C.R., N.S.W.); and the Australian Tax Decisions (A.T.D.).



THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT(a)*

(As altered to 1st July, 1936).

(63 & 64 VICT. CHAPTER 12.)

An Act to constitute the Commonwealth of Australia.

[9th July, 1900.]

WHEREAS(a) the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed(1) to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:---

- 1. This Act may be cited as the Commonwealth of Australia Short title Constitution Act.
- 2. The provisions of this Act referring to the Queen shall extend to Act to extend Her Majesty's heirs and successors in the sovereignty of the United to the Queen's Kingdom.

General Notes—(1) The people of the Colonies in question agreed, on the dates respectively set thereunder, to unite in one indissoluble Federal Commonwealth—The voting in each Colony was as follows .--

				Number of Votes		
Colony.		Date of Poli		In favour	Against	
New South Wales		••	20th June, 1899		107,420	82,741
Victoria .			27th July, 1899		152,653	9,805
South Australia			29th April, 1899		65,990	17,053
Queensland .			2nd September, 1899		38,488	30,996
Tasmania		-	27th July, 1899		13,437	791

The vote in the case of the Colony of Western Australia was taken subsequently to the date of assent to the Commonwealth of Australia Constitution Act, viz., on 31st July, 1900, the voting being as follows.—In favour, 44,800, Against, 19,891

NOTES OF CASES —(a) Preamble recited as emphasizing the axiom that the Crown is ubiquitous and indivisible in the King's Dominions. Amalgamated Society of Engineers v Adelaide Steamship Co Ital 1920), 28 C L R. 129, at p 152, 26 A L R. 337, at p 343

NOTE.— For notes of certain cases dealing generally with the interpretation of the Constitution, see Supplementary Notes of Cases, infra, pp. 107-113

Proclamation of Commonwealth

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia⁽¹⁾. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth(2).

GENERAL NOTES —(1) By Proclamation dated 17th September, 1900, Her Majesty Queen Victoria, with the advice of the Privy Council, declared that on and after 1st January, 1901, the people of New South Wales, Victoria, South Australia, Queensland, Tasmania, and Western Australia should be united in a Federal Commonwealth under the name of the Commonwealth of Australia. (For copy of the Proclamation see Commonwealth Statutory Rules 1901-27, Vol. IV, p 3621; Commonwealth Gazette,

(a) The first Governor-General, the Earl of Hopetoun (afterwards the Marquis of Linlithgow), was appointed on 29th October, 1960, and arrived in Sydney on 15th December, 1960. He took the necessary eaths at Centennial Park, Sydney, on 1st January, 1901

Commence ment of Act.

4. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed(1). But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

GENERAL NOTES .-- (1) The day so appointed was 1st January, 1901. See Note (1) to Covering Clause 3, supra

Operation of the Constitution

5. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution(a), shall be binding on the courts, judges, and people of every State(b) and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth(c) shall be in force on all British ships(d), the Queen's ships of war excepted, whose first port of clearance of and whose port of destination(e) are in the Commonwealth(f).

NOTES OF CASES.—(a) As to the obligation imposed on Courts by this section to consider whether laws made by the Parliament are made under, i.e., in pursuance of, the Constitution, see *Kirgston* v. Gadd. (1901) 27 V L.B. 417, at pp. 426, 428, 430, 7 A L.R. 265, at pp. 268, 269, 23 A.L.T. 152, at pp. 157, 158

Gadd. (1901) 27 V L.E. 417, at pp. 426, 428, 430, 7 A L.R. 265, at pp. 268, 269, 23 A.L.T. 152, at pp. 157, 158
As to the obligation imposed by this section on Courts to declare Statutes, which are inconsistent with the Constitution, invalid, see Baxter v. Commissioners of Taxation, N.S.W., (1907) 4 C.L.R. 1087, at p. 1125; 13 A.L.R. 313, at p. 328.

(b) As to the obligation imposed by this section upon State Courts to administer laws of the State, the Constitution, and laws passed by the Parliament of the Commonwealth, see Baxter v. Commissioners of Taxation, N.S.W., (1907) 4 C.L.R. 1087, at p. 1136; 13 A.L.R. 313, at p. 333.

As to the obligation imposed by this section upon State Courts to administer laws of litigants with a due regard to laws of the Commonwealth notwithstanding any State law, see Colonial Sugar Refining Co. Lid. v. Irving, 1904 St.R.Qd. 18, at pp. 27-8.

As to the power of the Parliament of the Commonwealth to pass laws binding on States or Executive Governments of States, see R. v. Sutten, (1908) 5 C.L.R. 789, at p. 307-, 14 A L.R. 505, at p. 512. See also "Supplementary Notes of Cases", particularly pp. 109-110.

As to the supremacy, by virtue of this section, of a Commonwealth law supported by the Constitution over a State law with which it is inconsistent, see Attorney-General for Queensland v. Attorney-General for the Commonwealth, (1915) 20 C.L.R. 148, at p. 172; 21 A.L.R. 221, at pp. 227-8.

As to the supremacy of Commonwealth legislation within its own plane over State legislation within its own plane, see Attorney-General for N.S.W. v. Brewery Employees Union of N.S.W., (1908) 6 C.L.R. 469, at p. 585; 14 A.L.R. 565, at p. 603; Duncan v. State of Queensland, (1916) 22 C.L.R. 556, at p. 587; 22 A.L.R. 465, at p. 478; Federated Muncipal and Shire Council Employees Union of Australia v. Melbourne Corporation, (1919) 26 C.L.R. 508, at pp. 525, 533, 539; 25 A.L.R. 309, at pp. 315, 318, 321 Section cited in support of invalidity of Wines, Beer and Spirit Sales Act 1880 (W.A.), which requi



As to the effect of this section in binding the Crown in right of a State so far as any law, validly made inder s 51, purported to affect the Crown in that right, see Analgamated Society of Engineers v Adelands Steamship to Ital, (1920) 28 C.L R 129, at pp 153, 166, 174; 26 A.L.B. 387, at pp. 343, 349, 352. Australian Railways Union v Victorian Railways Commissioners, (1930) 44 C.L.B. 319, at p. 389, 37

Australian Railways Union v Victorian Railways Commissioners, (1930) 44 C L B 319, at p. 389, 37 A L R 37, at p 59

As to the paramountey, under this section, of a title conferred under Commonwealth law over one conferred under State law, see Commonwealth v New South Wales, (1923, 33 C L R. 1, at p 27; 29 A.L R 401, at p 408, Clyde Engineering Co Lid v Couburn Meters Lid and Lever Bros Lid v Pickard, (1926) 37 C L R 466, at pp. 488, 497, 32 A L R 214, at pp 222, 225; R v Turner: er parte Marine Board of Hobart, Tasmania v Commonwealth, (1927) 39 C L R 411, at p 444; 33 A L R 174, at p 185

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[1926] 37 (LR 40), at pp. 480, 497, 32 ALR 214, at pp 22., 225; R v Turner: et plane diarries Board et Plobant. Tammana v Commonwealth. (1927) 39 CLR 411, at p 444; 33 ALR 174, at p 185

As to the Constitution and laws made by the Parliament being binding on the States and the Courts of the States see Commonwealth v Lamerick Steamship Co. Lid., Commonwealth v Kidman. (1924) 35 CLE 69, 4v p 118, 31 ALR 153, at p 169 (Special leage to appeal from the decision of the High Court in the case of Commonwealth v Kidman refused by Privy Council Kidman v Commonwealth. (1925) 32 ALR 1)

As to the laws of the Commonwealth being binding on the people of a State, and recting the King's periodative in relation to a State, see Griffin v South Australia, (1924) 35 CLR 200, at p 205; 31 ALR, 81, at p 83

As to the binding force of laws of the Commonwealth throughout the Commonwealth subject to any prohibition or qualification in the Constitution itself or in any controlling imperial law, see ex parte Walsh and Johnson, in re Fates, (1925) 37 CLR 36, at p 81; 32 ALR, 46, at p. 58

As to the binding force of laws of the Commonwealth notwithstanding State Constitutions, see Le Mesurier v Common (1029) 42 CLR 481, at p 513, 36 ALR, 41, at p 51; 32 ALR, 40, at p. 22.

As to the obligation on the Chief Justice of the Suprame Court of State Constitutions, see Le Mesurier v Common (1029) 42 CLR, 481, at p 513, 36 ALR, 41, at p 52, 1 ABC, 97, at p 129

As to the obligation on the Chief Justice of the Suprame Court of Conciliation and Aibitration and Justice of the High Court on appeal from the Supreme Court, see Bayne v Blake, (1908) 5 CLR, 487, at p 506; 14 ALR, 103, rt p. 105

Question whether in view of this clause the Commonwealth Court of Conciliation and Aibitration has jurisdiction on make an award inconsistent with a State law, considered by High Court Federation of Australian Boot Trade Employees Federation v, Whybrow & Co., (1919) 10 CLR, 266, at pp. 312–314, 328, 332, 340, 16 ALR, 185, at pp 202, 208, 209, 212–3. As to whethe

(c) As to whether the expression "laws of the Commonwealth" includes awas of a Territory, see R v Bernason, (1915) 19 C L R 629, at p. 635; 21 A.L R. 86, at p. 88

As to the meaning of the phrase "the laws of the Commonwealth" in this section, see The Commonwealth Colonal Combing, Spinning and Wearing Co. Ltd., (1922) 31 C L.R 421, at pp 431, 440; 29 A L.R 138, at pp. 140, 143

(d) Held by the Supreme Court of New South Wales in Banco (Owen and Pring, JJ, Stephen, A C.J dissenting) that the inclusion in this section of the reference to British ships does not mean that the laws of the Commonwealth cannot apply to foreign ships. Exparte Oesselmann, (1902) 2 S.B. (N S W)

438
Held also that this section has reference only to Australian coast-trale ships, which it renders subject to the laws of the Commonwealth whether within or without the territorial waters Ibid
As to the meaning of "British ships" see Merchant Service Guild of Australasia v. Commonwealth Steamship Owners' Association, (1913) 18 C L B. 664; 19 A.L.R. 450

As to the meaning of "British ships" see Merchant Service Guild of Australasia v. Commonwealth Steamship Owners' Association, (1913) 16 Cl. B. 664; 19 A.L.R. 450

(e) Held by the Commonwealth Court of Conciliation and Arbitration that the words are intended to describe a continuous voyage, "first port of the voyage, and that the words are intended to describe a continuous voyage, "first port of clearance" being the beginning, and" port of destination" the end Held, therefore, that where a ship sails on a round voyage, having as its commoncement and its termination a port within the Commonwealth the Commonwealth Conciliation and Arbitration Act 1904 is in force from beginning to end of the voyage, no matter to what part of the world the voyage has extended Merchant Service Guild of Australasia v. Commonwealth Steamship Owners' Association, (1906) 1 C.A.R. 1.

Held by the High Court that the words "ships whose first port of clearance and whose port of destination are in the Commonwealth" do not apply to ships, owned by a Victorian company, which are registered in Melbourne, and are engaged in trade between Calciutta and the neighbourne ports and Australia, sometimes going to South Africa Merchant Service Guild of Australasia v. Archibald Currie & Co Proprietary Ltd., (1908) 5 C L.R. 737; 14 A.L.R. 438

Held by the High Court (Issaes, Higgins, Gavan Duffy, and Rich, JJ, Barton, Acting CJ, dissenting) that, by virtue of this section, a single and indivisible industrial dispute is none the less an industrial dispute extending beyond the limits of any one State within the meaning of s 51 (XXXV) of the Constitution merely because some of the operations in respect of which the dispute exists are performed beyond the territorial limits of the Commonwealth. Merchant Service Guild of Australasia v. Commonwealth Steamship Owners' Association, (1913) 16 C.L.R. 664; 19 A.L.B. 450.

Held by the High Court (Issaes and Higgins, JJ., and, semble, by Gavan Duffy and Rich, JJ) that the words "first port of clearance " and "port of

as to the terms of contracts to be entered into in Australia for employment beyond the territorial limits of Australia upon British ships whose ports of clearance and final ports of destination are not in the Commonwealth Merchant Service Guild of Australiasia v Commonwealth Steamship Owners' Association (No 3), (1920) 28 C L R 495, 27 A L R. 213.

(f) As to whether this section extends the ambit of the jurisdiction of the Commonwealth Parliament with respect to navigation and shipping, see Australian Steamships Limited v. Malcolm, (1914) 19 C.L.R. 298, at pp 304 311, 324, 330, 21 A.L.R. 37, at pp 38, 41, 46, 48

As to the effect of this clause in preventing s. 51 (xxix)—External affairs—being read as empowering Extra-territorial legislation in respect of all the subject-matters in s. 51, see judgment of High Court in R. v. Burgess Exparte Henry, (delivered 10th November, 1936)

Definitions

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

"The States" shall mean such of the colonies of New South Wales. New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States⁽¹⁾; and each of such parts of the Commonwealth shall be called "a State"

"Original States" shall mean such States as are parts of the Commonwealth at its establishment⁽²⁾.

GENERAL NOTES.—(1) No colonies or territories had, up to the date of the preparation of this volume, been admitted into or established by the Commonwealth as States

(2) The original States are New South Wales, Victoria, South Australia, Queensland, Tasmania and Westein Australia

Repeal of Federal Council -48 & 49 Vict

7. The Federal Council of Australasia Act, 1885, is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth⁽¹⁾.

Any such law may be repealed as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof(1).

GENERAL NOTES.—(1) The short titles of the laws passed by the Federal Council of Australasia, and in force at the establishment of the Commonwealth, are as set out hereunder. These havs are contained in the Journals and Printed Papers of the Federal Council of Australasia, a publication consisting of eight volumes, seven volumes of which were printed by the Government Printer, Hobart, Tasmania, while the eighth volume was printed by the Government Printer, Hobart, Tasmania, while the eighth volume was printed by the Government Printer, Melbourne, Victera. The laws are also contained in the publications respectively indicated in the table at top of page 5 of this volume. As, upon the establishment of the Commonwealth, all of the colonies referred to in covering Clause 6 of the Constitution became States, there remains no "colony not beeing a State" to which the second paragraph of this section can apply.

The Federal Council of Australasia Act, 1885, and such of the laws passed by the Federal Council of Australasia as were in force at the date of the preparation of this volume, are contained in Appendix A, infir. p) 119-141

On the following Table, short titles of laws not in force at the date of the preparation of this volume are printed in italics. The last column of the Table on the next page shows how these laws have been affected by Commonwealth legislation

Consecutive Number of Act for purposes of this Table *	Regnal Year and Number of Act	Short Title,
1	49 Victoria No. 1	The Federal Council Interpretation Act 1886
2	49 Victoria No 2 .	The Federal Council Swidence Act 1886
8	49 Victoria No 3 .	The Australasian Civil Process Act, 1886
4	49 Victoria No 4 .	The Australasian Judaments Act 1886
5	51 Victoria No 1 .	The Queensland Pearl Shell and Beche-de-mer Fisheries (Extra- territorial) Act of 1888
6	52 Victoria No 1	The Western Australian Pearl Shell and Beche-de-mer Fisheries (Extra-Territorial) Act of 1889
7	54 Victoria No. 1	The Australasian Orders in Lunacy Act, 1891
8	56 Victoria No. 1	The Federal Garrisons Act. 1893
8	60 Victoria No 1 .	The Australasian Naturalization Act, 1897
10	60 Victoria No. 2 .	The Australasian Testamentary Process Act, 1897



Table indicating other publications containing copies of the laws passed by the Federal Council of Australasia, with particulars as to how the laws have been affected by Commonwealth legislation

Law No *	Victorian Statutes, 1890, Vol VII . Pages	Victoria Government Gazette—Year aud Pages	Queens- land Statutes Vol III, Pages		Tas- manian Statutes, Vol IV, Pages	Hobart Gazette — Year and Pages.	How affected by Common- wealth legislation
1 2 3	1009-12 1000-1 997-1000	1886, pp 396-7 1886, p 397 1886, pp 397-8	3621-4 3624-5	1886, pp 659-61 1886, pp 663-4 1886, pp 665-8	3011-4 3014-5 3015-8	1886, pp 345-8 1886, pp 349-50 1886, pp. 351-4	Repealed by Act No 11,
4	1012-5	1867, pp 398-9		1886, pp 669-71	3018-20	1886, pp 355-8	1901, s 2 Repealed by Act No 11 1901, s 2
5 6 7 8	1001-5 1005-9 1015-6	1888, p 2578-9 1890, p 332-3 1891, pp 903-4 1893, pp 1131-2	3625-9 3629-32 3632-3	1888, pp 1238-40 1890, pp 368-70 1891, p 495 1893, pp 921-2	3021-4 3025-8 3028-9 3029-31	1888, pp 1101-5 1890, pp 209-13 1891, pp. 341-2 1893, pp 439-41	Repealed by Act No 20, 1903, a 6
9		1897, p 1122	3633	1897, p 811	3031	1897, pp 361-2	Superseded by Act No 11,
10		1897, p 1123		1897, p 812	3032-3	1897, pp 363-5	Repealed by Act No 11, 1901, 5 2

^{*} Note —The numbers contained in the first column of each of the foregoing tables are not in any way official numbers, but have merely been assigned to the laws for the purposes of this volume

8. After the passing of this Act the Colonial Boundaries Act, 1895,(1) Application of Colonial Shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant of the Commonwealth shall be taken to be a self-governing constant o colony for the purposes of that Act.

GENERAL NOTES .-- (1) Following is a copy of the Colonial Boundaries Act, 1895 --

58-59 VIC, CHAPTER 34

AN ACT TO PROVIDE IN CERTAIN CASES FOR THE ALTERATION OF THE BOUNDARIES OF COLONIES.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows—

1—(1) Where the boundaries of a colony have, either before or after the passing of this Act, been altered by Her Majesty the Queen by Order in Council or letters patent the boundaries as so altered shall be, and be deemed to have been from the date of the alteration, the boundaries of the colony colony

- (2) Provided that the consent of a self-governing colony shall be required for the alteration of the
- (8.) In this Act "self-governing colony" means any of the colonies specified in the schedule to this Act.
 - 2. This Act may be cited as the Colonial Boundaries Act, 1895.

Short title

SELF-GOVERNING COLONIES.

Canada Newfoundland New South Wales. Victoria South Australia. Queensland

Western Australia Tasmania New Zealand Cape of Good Hope. Natal.

9. The Constitution of the Commonwealth shall be as follows:—

THE CONSTITUTION.

This Constitution is divided as follows:—

Chapter I.—The Parliament:

I.—General: Part

Part II .- The Senate :

Part III.—The House of Representatives:

Part IV.—Both Houses of the Parliament:

Part V.—Powers of the Parliament:

II.—The Executive Government: Chapter

Chapter III.—The Judicature:

Chapter IV.—Finance and Trade:

Chapter V.—The States:

Chapter VI.—New States:

Chapter VII.—Miscellaneous:

Chapter VIII —Alteration of the Constitution.

The Schedule.

Chapter I. The Parliament.

PART I. GENERAL.

Legislative

CHAPTER I.—THE PARLIAMENT.

PART I.—GENERAL.

1. The legislative power^(a) of the Commonwealth shall be vested in a Federal Parliament, (b) which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament," or "The Parliament of the Commonwealth."

"The Parliament," or "The Parliament of the Commonwealth."

Notes of Case.—(a) Question whether s 52 (g) of the Customs Act 1901—which gives the Governor-General in Council power by proclamation to prohibit the importation of goods specified by him—is a contravention of this section as being a delegation of legislative power, discussed by high Court. Baxter v Ah Way, (1909), 8 C L R. 626, at p 634, 15 A L.R 603, at p 605 See also Supplementary Notes, upta, p 113

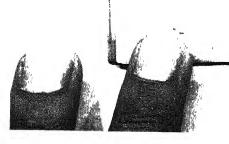
(b) As to the power of the Parliament—

(i) to confer upon the Governor-General wide powers to make regulations, and (ii) to declare that such regulations shall have the force of law notwithstanding anything in any other Act, see Victorian Steedoring and General Contracting Co. Pty. Ltd. and Meales v. Dignan, (1931), 46 C L R. 73; 38 A L R. 22.

Section 13 of the Dried Fruits Export Control Act 1924—1935 (Commonwealth) provides as follows.—
"For the purpose of enabling the Board effectively to control the export and the sale and distribution after export of Australian dried fruits, the Governor-General may by proclamation prohibit the export from the Commonwealth of any dired fruits except in accordance with a licence issued by the Minister subject to such conditions and restrictions as are prescribed after recommendation to the Minister by the Board". Held by the High Court that that section contains no improper delegation of the legislative powers of the Commonwealth. Crowe v. Commonwealth, (1935) 54 C.L.R. 69; 41 A.L.R. 445 See also Supplementary Notes, infra, p. 113.

Governor-Goneral.

2. A Governor-General (1)(a) appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.



GENERAL NOTES -- (1) The following is a list of the Governors-General and persons appointed to administer the Government of the Commonwealth since the establishment of the Commonwealth --

Governors-General and Persons appointed to administer	Term o	of Office
the Government *	From	То
Rt Hon John Adrian Louis, Earl of Hopetoun, PC, KT, GCMG, GCVO (afterwards the Most Hon the Marques of Linlithgow)	1st January, 1901	9th January, 1903†
Rt. Hon Hallam, Baron Tennyson, PC, GCMG (Acting Governor-General)	17th July, 1902	9th January, 1903
Rt. Hon Hallam. Raron Tennyson PC GCMG Rt. Hon Henry Stafford. Baron Northcote, PC GCMG. GCIE. CB	9th January, 1903 21st January, 1904	21st January 1904 9th September, 1908
Rt. Hon William Humble, Earl of Dudley, PC, GCB, GCMG, GCVO	9th September, 1908	31st July, 1911;
Rt Hon. Frederic John Napier, Baron Chelmsfold, K.C.M.G. (Administrator of the Government of the Commonwealth)	21st December, 1909	27th January, 1910
Rt Hon Thomas, Baron Denman, PC, GCMG, KCVO.	31st July, 1911	18th May, 1914
Rt. Hon Sir Ronald Craufurd Munio-Ferguson, PC, GCMG (afterwards Viscount Noval)	18th May, 1914	6th October, 1920
Rt Hon. Henry William, Baron Forster, PC, GCMG Rt Hon John Lawrence, Baron Stonehaven, PC, GCMG, DSO	6th October 1920 8th October, 1925	8th October, 1925 22nd January, 1931§
Lt-Col the Rt Hon Arthur Herbert Tennyson, Baron Somers, KCM & DSC, MC (Administering the Government of the Commonwealth)	3rd October, 1930	22nd January 1931
Rt. Hon Sir Isaac Alfred Isaacs, P.C., G.C.M.G. Brigadier-General the Rt. Hon Alexander Gore Arkwright, Baron Gowrie, V.C., G.C.M.G. C.B., D.S.O.	22nd January, 1931 23rd January, 1936	23rd January, 1936

[°] In the foregoing list, the Persons named held office as Governors-General, except where otherwise indicated after their names
† LetteAustralia, 16th July, 1902.
† Absent from Australia from 21st December, 1909, to 27th January, 1910
§ Left Australia, 2nd October, 1930
|| Still in office at the date of the preparation of this volume

Notes of Cases—(a) As to the validity of a provision in < 2 (2) of the War Precautions Act 1914-1918, empowering the Governor-General to issue a proclamation of the cessation of war, see Jerger v Pearce, R v. Lloyd, (1920), 28 C L R 588 at p 504

As to the powers and functions conferred upon, and the position of, the Governor-General under this section, see Commonwealth v Colonial Combing, Spinning and Weaving Co. Ltd., (1922), 31 C L R 421, at pp 437, 453, 29 A L R 138, at pp 142, 148

3. There shall be payable to the Queen out of the Consolidated Salary or Revenue fund of the Commonwealth, for the salary of the Governor-General. General, an annual sum which, until the Parliament otherwise provides. (1) shall be ten thousand pounds.

The salary of a Governor-General shall not be altered during his continuance in office. (2)

GENERAL NOTES .- (1) The Parliament had not, up to the date of the preparation of this volume, otherwise provided

During the undermentioned three financial years, however, an allowance was made to the GovernorGeneral for residence at Canberra —

	Amount of Allowance						
1928-29 1929-30 1930-31 .	:.		:	••		::	2,000 2,000 2,000 500

(*) Although under this section the Parliament has no power to alter the salary of a Governor-General during his continuance in office, the Governor-General, during the undermentioned financial years, voluntarily accepted a reduction of salary to the following reduced amounts, in lieu of the sum of Ten thousand pounds --

	Financial Year.						Reduced amount voluntarily accepted by Governor-General
1931-32 1932-33 1933-34 1934-35	:	•••					£ 8,900 8 900 8,900 9 650

Provisions relating to Governor-General. 4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General⁽¹⁾ for the time being, or such person⁽¹⁾ as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

GENERAL NOTES —(1) For list of Governors-General and Persons appointed, up to the date of the preparation of this volume, to administer the Government of the Commonwealth, see General Note (1) to a 2, supra

Sessions of Parliament. Prorogation and Dissolution. 5. The Governor-General may appoint such times for holding the sessions of the Parliament⁽¹⁾ as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.⁽¹⁾

Summoning Parliament After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

First session

The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

GENERAL NOTES .- (1) The following are-

(a) the dates of meeting of the Parliament,

(b) the first and last dates of sitting of each session of the Parliament; and

(c) the dates of dissolution (or expiration) of the House of Representatives, or, in the case of a double dissolution, of both Houses of the Parliament —

Number of Parliament	Date of meeting of Parliament.	First an	d last dates of sittm	Date of Dissolution (or expiration) of House of Repre- sentatives, or, in	
ramament	or rainament.	Session	From	То	case of double dissolution, of both Houses *
First	9th May, 1901 .	First	9th May, 1901	10th Oct , 1902	23rd Nov , 1903
Second	2nd Mar, 1904	Second First Second	26th May, 1903 2nd Mai , 1904 28th June, 1905	22nd Oct , 1903 15th Dec , 1904 21st Dec , 1905	5th Nov., 1906
Taird .	20th Feb, 1907	Third First Second	7th June, 1906. 20th Feb, 1907 3rd July, 1907.	12th Oct , 1905 21st Feb , 1907 5th June, 1908	19th Feb , 1910
Fourth	1st July, 1910 .	Third Fourth First Second	16th Sept , 1908 26th May, 1909 1st July, 1910 . 5th Sept , 1911	11th Dec, 1908 8th Dec, 1909 25th Nov., 1910 21st Dec, 1911	23rd Apr , 1913
Fifth .	9th July, 1913	Thud First Second	19th June, 1912 9th July, 1913	21st Dec., 1912 19th Dec., 1913 28th June, 1914	30th July, 1914
Sixth . Seventh .	8th Oct, 1914 14th June, 1917	First First Second	15th Apr., 1914 8th Oct., 1914. 14th June, 1917 11th July, 1917	17th Mar, 1917 14th June, 1917 24th Oct., 1919	26th Mar, 1917 3rd Nov, 1919
Eighth .	26th Feb , 1920	First	26th Feb , 1920	10th Dec, 1921	6th Nov , 1922
Ninth	28th Feb., 1923	First Second Third	29th June, 1922 28th Feb., 1923 13th June, 1923 11th June, 1925	14th Oct 1922 15th Mar., 1923 10th Oct, 1924 25th Sept, 1925	3rd Oct , 1925
Tenth Eleventh Twelfth Thirteenth Fourteenth	13th Jan, 1926 9th Feb, 1929 20th Nov, 1929 17th Feb, 1932 23rd Oct, 1934	First First First First	13th Jan, 1926 9th Feb., 1929 20th Nov, 1929 17th Feb., 1932 23rd Oct, 1934	22nd Sept, 1928 12th Sept, 1929 26th Nov, 1931 2nd Aug, 1934	9th Oct , 1928 16th Sept , 1929 27th Nov , 1931 7th Aug. 1934

^{*} NOTE.—In all cases except those of the Third and Fifth Parhaments, the date in the last column of the foregoing table is that of the dissolution of the House of Representatives — In the case of the Third Parliament the date is that of the expiry of the House of Representatives. In the case of the Fifth Parliament, the date is that of the double dissolution, or dissolution of both Houses of the Parliament * First Session not completed at the date of the preparation of this volume



6. There shall be a session of the Parliament once at least in Yearly session of Parliament every year, (1) so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

GENERAL NOTES -(1) For details of sessions of the Parliament, see notes to s 5, supra

PART II.-THE SENATE.

PART II THE SENATE

7. The Senate shall be composed of senators for each State, directly The Senate chosen by the people of the State, voting, until the Parliament otherwise provides,(1) as one electorate.(a)

But until the Parliament of the Commonwealth otherwise provides,(1) the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, (2) and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides(1) there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State, (3) but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

GENERAL NOTES -(1) The Parliament had not, up to the date of the preparation of this volume,

(*) The Parliament of the State of Queensland had not, up to the date of the preparation of this volume, made any law in pursuance of this power

(*) The Parliament had not, up to the date of the preparation of this volume, made any law in pursuance of this power.

Notes of Cases—(a) As to the provision for Senators being directly chosen by the people of the State being a dominant provision, see Vardon v O'Loghlin, (1907), 5 CLR. 201, at pp 206, 207, 212. 215; 14 ALR 233 at pp 234 236-7

As to the Senate representing the several States as entities, and equally, as parties that have entered into the federal compact as equals, see Buchanan v Commonwealth, (1913) 16 CLR 315, at p 327; 19 ALR 251, at p 254

8. The qualification of electors of senators shall be in each State qualification that which is prescribed by this Constitution, or by the Parliament, (1) of electors. as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

GENERAL NOTES —(1) For qualifications of electors of Senators at the date of the preparation of this volume, see *Commonwealth* Electoral Act 1918-1934, s 39.

9.(a) The Parliament of the Commonwealth may make laws Method prescribing the method of choosing senators, (b) but so that the method of senators shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State.⁽¹⁾

Times and places. The Parliament of a State may make laws for determining the times and places of elections of senators for the State. (1) (c)

GENERAL NOTES.—(1) For list of State Acts passed in pursuance of this power, see Table of Commonwealth legislation, supra p. viii (footnote).

NOTES OF CASES.—(a) As to this section emphasizing that the doing of all things necessary for giving a State its representation in the Senate is entrusted to the State itself, see R v Governor of State of South Australia, (1907) 4 C L.R. 1497, at pp 1507-8, 14 A L R. 98, at p 100. See also Vardon v O'Loghlin, (1907) 5 C L R 201, at pp 209, 215; 14 A L R. 233, at pp 235, 237.

(b) Held by the High Court that s 128A (12) of the Commonwealth Electoral Act 1918-1925- which provides inter alia that every elector who fails to vote at an election without a valid and sufficient reason for such failure shall be guilty of an offence—is a valid exercise of the power conferred on the Commonwealth Parliament by this section, to make laws "prescribing the method of choosing senators" Judd v McKeon, (1926) 38 C L R 380; 32 A L R 389.

(c) Held by the High Court that s. 14 of the Commonwealth Electoral (War-time) Act 1917—which provides that on the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no referendum or vote of the electors of any State or part of a State shall be taken under the law of a State—is not inconsistent with this section R v Brisbane Licensing Court: Ex parts Daniell, (1920) 28 CLR 23, at p 31, 26 ALR 105, at p 107

Application of State laws. 10. Until the Parliament otherwise provides, (1) but subject to this Constitution, the laws in force in each State, for the time being, relating to elections (a) for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State. (b)

GENERAL NOTES—(1) The Parliament has otherwise provided, by means of the Commonwealth Electoral Acts, the first of which was passed in 1902

NOTES OF CASES—(a) Held by the High Court that a law requiring the signing of electoral articles in newspapers at the time of elections is a law relating to elections Smith v. Oldhum. (1912) 15 C.L.R. 355; 18 A L.R. 448.

(b) Held by the High Court that s. 14 of the Commonwealth Electoral (War-time) Act 1917—which prohibits the holding under State law of a referendum or vote of the electors of any State or part of a State on the day appointed as polling day for an election of the Senate or a general election of the House of Representatives—is a lawful exercise of the power conferred on the Parliament of the Commonwealth by this section, coupled with ss. 51 (XXXVI) and (XXXIX) R v Brisbane Incensing Court Exparte Daniell, (1920) 28 C L.R. 23; 26 A L R. 105

Failure to choose senators.

11. The Senate may proceed to the despatch of business, notwithstanding the failure⁽¹⁾ of any State to provide for its representation in the Senate.^(a)

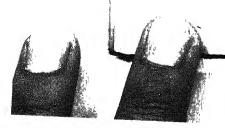
GENERAL NOTES —(1) No cases of failure of any State to provide for its representation in the Senate had arisen up to the date of the preparation of this volume.

Notes of Cases.—(a) Concluding phrase of this section cited by High Court as suggesting prima facie that the doing of all things necessary for giving a State its representation in the Senate is entrusted to the State itself. See R v. Governor of the State of South Australia, (1907) 4 C.L R 1497, at pp. 1507-8, 14 A.L.R. 98, at p. 100

Isauc of writs

12. The Governor^(a) of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

NOTES OF CASES.—(a) Held by the High Court that the Governor, in acting under this section, is acting in the capacity of the constitutional head of the State, and not as an officer of the Commonwealth



within the meaning of s. 75 (v) of the Constitution, and that therefore a mandamus will not lie to him to compel him to do an act in his capacity of Governor $R \vee Governor$ of the State of South Australia, (1907) 4 CLR 1497; 14 ALR 98

As to ss 7 and 9 and this section being ample in themselves to provide by direct election for the filling of places of senators retiring at the expiration of their term notwithstanding any failure to comply strictly with the second paragraph of s. 13, see Vardon v O'Loghlin, (1907) 5 CLR 201, at p 215, 14 ALR 233, at p 237
As to writs being issued under the authority of this section whenever the necessity arises, see Vardon v O'Loghlin, (1907) 5 C L R 201, at p 209, 14 A L R 233, at p 235

13.(1) As soon as may be after the Senate first meets, and after Rotation of senators, each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of the third year three years, and the places of those of the second class at the expiration of the sixth year six years, from the beginning of their term of service; and afterwards the places of senators shall become

vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made in the year at the expiration of which within one year before the places are to become

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of January July following the day of his election, (a) except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of January July preceding the day of his election.

GENERAL NOTES.—(1) The words printed in italics in this section are those which were omitted by Act No. 1, 1907, and the words printed in black type are those which were inserted by that Act

Notes of Cases.—(a) Held by the High Court (prior to the alteration substituting "July" for "January") that this provision is not inconsistent with an election being held after the first day of January to fill vacancies which ought to have been filled at an election held before that day R. v Governor of the State of South Australia, (1907) 4 CLR 1497, at p 1508; 14 ALR 98; at p 100.

As to the object of this section being for the purpose of fiving the term of service of Senators elected in ordinary and regular rotation, see Vardon v O'Loghlin, (1907) 5 CLR 201, at pp 210, 211, 214-5; 14 ALR 233, at pp 235-7

14. Whenever the number of senators for a State is increased or Further diminished, (1) the Parliament of the Commonwealth may make such rotation provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.

GENERAL NOTES --(1) The number of Senators for a State had not, up to the date of the preparation of this volume, been increased or diminished.

15.(a) If the place of a senator becomes vacant before the expiration Casual of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold

the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term

The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.

Notes of Casas —(a) Held by the High Court that this section applies only in case of an abnormal ending of the term of service of a Senator Vardon v O'Loghlin, (1907) 5 C L R 201, at pp 206, 208, 210-16, 14 A.L R 233, at pp 234-8 See also R v Governor of the State of South Australia, (1907) 4 C L R 1497, at pp 1507-1510, 14 A L R 98, at pp 100-1

Qualifications of senator

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.⁽¹⁾

GENERAL NOTES — (1) The qualifications of a member of the House of Representatives were originally those set out in s 34 (nnfa), but have since been prescribed by the Parliament in the Commonwealth Electoral Acts The qualifications in force at the date of the preparation of this volume are contained in the Commonwealth Electoral Act 1918–1929, s 69

Election of President.

17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

Absence of President 18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence.

Resignation of senator.

19.^(a) A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is



absent from the Commonwealth, resign his place, which thereupon shall become vacant.

Notes of Cases—(a) Discussion as to the possible effect of a resignation under this section after a petition had been lodged against the return of the person resigning and an appointment had been made under s 15 as to a casual vacancy. Vardon v O'Loghlin, (1907) 5 C'L R 201, at p 208. 14 A L R 233, at p 235

- 20. The place of a senator shall become vacant if for two Vacancy by consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate.
- 21. Whenever a vacancy happens in the Senate, (a) the President, Vacancy to be notified or if there is no President or if the President is absent from the Commonwealth the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

Notes of Cases —(a) Held by the High Court that where the Court of Disputed Returns has declared an election void as to one of three Senators returned as elected, a vacancy has arisen within the meaning of this section R v Governor of the State of South Australia, (1907) 4 C L.R 1497, at p 1509, 14 A L R 98, at p 101

22. Until the Parliament otherwise provides, (1) the presence of at Quorum least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers

General Notes —(1) The Parliament had not, up to the date of the preparation of this volume, otherwise provided

23. Questions arising in the Senate shall be determined by a voting in majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

PART III.—THE HOUSE OF REPRESENTATIVES.

REPRESENTA-

24. The House of Representatives shall be composed of members directly chosen by the people(a) of the Commonwealth, and the number Constitution of of such members shall be, as nearly as practicable, twice the number House of Representatives. of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides,(1) be determined, whenever necessary, in the following manner:

- (i.) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:
- (ii.) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

GENERAL NOTES .- (1) The Parliament has otherwise provided, by means of the Representation Act

1905.

For the first six years after the establishment of the Commonwealth the number of members chosen in each State was as set out in the proviso to s 26 (nifra) Thereafter the following changes took place prior to the date of the preparation of this volume.

Prior to the election held on 12th December, 1906, for the Third Parliament, Victoria lost a member and New South Wales gained a member

Prior to the election held on 13th May, 1913, for the Flith Parliament, Victoria lost a member and Queensland gained a member

Prior to the election held on 16th December, 1922, for the Ninth Parliament, Victoria lost a member and New South Wales gained a member

Prior to the election held on 15th September, 1934, for the Fourteenth Parliament, South Australia lost a member.

The number of members chosen by the various States at the date of the preparation of this volume.

The number of members chosen by the various States at the date of the preparation of this volume

Provision as to races disqualified from voting.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

Representatives Parliament.

26. Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows:-

> New South Wales twenty-three; Victoria twenty; Queensland.. eight; . . South Australia six; Tasmania ... five;

Provided that if Western Australia is an Original State. (1) the numbers shall be as follows :--

New South Wales twenty-six; Victoria twenty three; . . Queensland... nine; South Australia seven; Western Australia five; Tasmania ... five.

GENERAL NOTES —(1) Western Australia was an original State See General Notes to Preamble, supra, p. 1, General Note (1) to covering clause 3, supra, p 2, and General Note (1) to covering clause 6, supra, p 4

27. Subject to this Constitution, the Parliament may make laws Alteration of for increasing or diminishing the number of the members of the members. House of Representatives. (1)

GENERAL NOTES.—(1) Up to the date of the preparation of this volume the Parliament had not made any law for the purpose of increasing or diminishing the number of members. The operation of the Representation Act 1905, enacted in pursuance of s 21, supra, may, however in certain circumstances, result in an increase or diministion of the number of members, and has in fact so reculted. See General Note (1) to s 24, supra, p 14.

28. Every House of Representatives (1) shall continue for three years Duration of from the first meeting of the House, and no longer, but may be sooner Representatives dissolved by the Governor-General.

GENERAL NOTES —(1) For dates of meeting and dissolution (or expiration) of each House of Representatives, see General Notes to s 5, supra, p. 8

29. Until the Parliament of the Commonwealth otherwise provides, (1) Electoral divisions. the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. (2) A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate. (3)

CENERAL NOTES.—(1) The Parliament of the Commonwealth has otherwise provided, by means of the Commonwealth Electoral Acts For the provisions in force at the date of the preparation of this volume, see Commonwealth Electoral Act 1918—1934, ss 15—25.

(a) For list of State Acts passed in pursuance of this power see footnote to s. 29 in the Table of Commonwealth legislation, supra, p. ix.

(*) At the first Federal Election—that held in 1901—each of the States of South Australia and Tasmania was one electorate for the election of members of the House of Representatives

30. Until the Parliament otherwise provides, (1) the qualification of qualification of electors. electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

GENERAL NOTES.—(1) The Parliament has otherwise provided, by means of the Commonwealth Electoral Act 1918-1934, s. 39 (repealing an earlier provision made by the Commonwealth Franchise Act 1902).

3014.--5

Application of State laws.

31. Until the Parliament otherwise provides, (1) but subject to this Constitution, the laws in force in each State for the time being relating to elections (a) for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

GENERAL NOTES.—(1) The Parliament has otherwise provided, by means of the Commonwealth Electoral Acts. For the present provision, see Commonwealth Electoral Act 1918-1934.

Notes of Cases.—(a) Held by the Supreme Court of Victoria that s. 282 of the Constitution Act Amendment Act 1890 (Vic)—which provides that no action suit or other proceeding whatsoever shall be brought or maintained whereby to charge any person upon any contract or agreement for the loan of money or the dung of any work or service or the supply of any goods for or towards or concerning or mearrying on or prosecuting any election of a member under this Act or any Act hereby repealed—is part of the laws in force in Victoria "relating to elections", within the meaning of this section Henningson v. Williams, (1901) 27 V L R 374; 7 A L R 211; 23 A L.T. 92. Question of application of s. 232 of the Constitution Act Amendment Act 1890 (Vic.) to Commonwealth Elections discussed by High Court. Muller v. Haweis, (1907) 5 C L R. 89; 13 A L R. 583.

Held by the High Court that s 181AA of the Commonwealth Electoral Act 1902-1911—which requires the signing of electoral articles in newspapers at the time of elections—is a law relating to elections, and within the powers of the Parliament of the Commonwealth. Smith v. Oldham, (1912) 15 C.L R. 355, 18 A.L R. 448.

Write for general election.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

Writs for

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

Unalifications of

- 34. Until the Parliament otherwise provides, (1) the qualifications of a member of the House of Representatives shall be as follows:—
 - (i.) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:

(ii.) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

GENERAL NOTES.—(?) The Parliament has otherwise provided, by means of the Commonwealth Franchise Act 1902 and the Commonwealth Electoral Acts. The qualifications in force at the date of the preparation of this volume are contained in the Commonwealth Electoral Act 1918–1934, s. 69. The qualifications of the member representing the Northern Territory are set out in the Northern Territory Representation Act 1922–1925, s. 4.

35. The House of Representatives shall, before proceeding to the Election of Speaker. despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

36. Before or during any absence of the Speaker, the House of Absence of Speaker. Representatives may choose a member to perform his duties in his absence.

37. A member may by writing addressed to the Speaker, or to Resignation of member. the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

- 38. The place of a member shall become vacant if for two vacancy by consecutive months of any session of the Parliament he, without the absence permission of the House, fails to attend the House.
- 39. Until the Parliament otherwise provides, (1) the presence of at quorum. least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

GENERAL NOTES.—(1) The Parliament had not, up to the date of the preparation of this volume, otherwise provided.

40. Questions arising in the House of Representatives shall be voting determined by a majority of votes other than that of the Speaker. Representatives. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

PART IV .- BOTH HOUSES OF THE PARLIAMENT. 41. No adult person who has or acquires a right to vote(a) at elections for the more numerous House of the Parliament of a State shall,

hight of electors of States.

while the right continues, (b) be prevented by any law of the Commonwealth(c) from voting at elections for either House of the Parliament of the Commonwealth.(d)

Notes of Cases.—(a) As to the franchise being a light to vote, see Judd v McKeon, (1926) 38 C L R. 380, at p. 385; 32 A L R 389, at p. 391.

(b) Held by the High Court that an aboriginal native of Asia or the Islands of the Pacific who was naturalized within the meaning of the Naturalization Act 1903-1917, is, under s. 18 of the Electoral Act 1907 (W A.), disqualified from voting at an election notwithstanding that he has, pursuant to s. 17, been circled as an elector, and therefore that he is not within the protection of this section. Muramats v. Commonwealth Electoral Officer (W.A.), (1923) 32, C.L.R. 500; 30 A.L.R. 81

(c) As to the meaning of "law of the Commonwealth" in this section, see R. v. Bernasconi, (1915) 19 C.L.R. 929, at p 635, 21 A.L.R. 86, at p 88

(d) Objection that certain persons whose names were on the State roll, but not on the Commonwealth roll, were not allowed to vote, overruled by High Court Cameron v Fysh, (1904) 1 C L R 314, at p 319

Oath or affirmation of allegiance.

- 42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.
- 43. A member of either House of the Parliament shall be incapable Member of one House ineligible of being chosen or of sitting as a member of the other House.

44. Any person who—

Disqualification.

(i.) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or

(ii.) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or $longer^{(a)}$: or

(iii.) Is an undischarged bankrupt or insolvent : or

(iv.) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or

(v.) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member

of the House of Representatives.

But sub-section (iv.) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the



Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

NOTES OF CASES —(a) As to the operation of this paragraph in cases where a candidate is found guilty of illegal practices punishable by maprisonment for one year or longer, see Chanter v Ricckwood, (1904) 1 CL.R. 39, at pp. 57, 63, 76; 10 A.L.R. (C N.) 18, at pp 19—20.

45. If a senator or member of the House of Representatives—

- (i.) Becomes subject to any of the disabilities mentioned in the disqualification. last preceding section: or
- (ii.) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors: or
- (iii.) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State:

his place shall thereupon become vacant.

46. Until the Parliament otherwise provides, (1) any person declared sitting when by this Constitution to be incapable of sitting as a senator or as a disquartied. member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

GENERAL NOTES.—(1) The Parliament had not otherwise provided up to the date of the preparation of this volume.

47. Until the Parliament otherwise provides,(1) any question Disputed respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy(a) in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

GENERAL NOTES.—(1) The Parliament has otherwise provided, by means of the Commonwealth Electronal Arits. For the provision in force at the date of the preparation of this volume, constituting the High Court of Amstralia the Court of Disputed Returns, see Commonwealth Electronal Act 1918-1934, Jan 182-2009

Notes of Cases.—(a) Held by the High Court that, until the Parliament should otherwise provide, the question whether a vacancy existed in the representation of a State in the Senate was a question to be decided by the Senate under this section. R. v. The Governor of the State of South Australia, (1907) 4 C.L.E. 1497; 14 A.L.B. 98.

Allowance to members

48. Until the Parliament otherwise provides,(1) each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

GENEFAL NOTES --(1) The Parliament has otherwise provided, as follows --Rate of Allowance-

- (t) By the Parliamentary Allowances Act 1907, assented to 28th August, 1907, the allowance was increased to £600 a year, except in the case of Ministers, the Presiding Officers of the two Houses, and the Chairmen of Committees.
- (ii) By the Parliamentary Allowances Act 1920, assented to 22nd May, 1920, the allowance was increased to £1,000 a year, except in the case of Ministers, the Presiding Officers of the two Houses, and the Chairmen of Committees, and to £800 in the case of the members holding those positions. Provision was also made for an additional allowance of £200 a year to the Leader of the Opposition in the Senate, and £400 a year to the Leader of the Opposition in the House of Representatives.
- (iii) By the Financial Emergency Act 1931, assented to 17th July, 1931, the allowances of Senators and Members (including allowances in respect of any parliamentary office) were reduced by the following percentages.—

Allowances up to £1	,000 per an	num					20
Allowances exceeds	ng £1,000,	but	not	exceeding	£2,000	per	221
Allowances exceeding	g £2,000	:		•		• •	25

(iv) By the Financial Emergency Act 1932, assented to 3rd October, 1932, the allowances of Senators and Members were reduced by the following percentages, in lieu of the re-ductions set out in note (iu), supra.—

Allowance of Senator or Member Salary of President of Senate of	r Speaker	of	House of	Repre-	Per cen 25
					30
Salary of a Chairman of Committa	ees			•	27± 25

(v) By the Financial Relief Act 1933, assented to 20th October, 1933, the allowances of Senators and Members were reduced by the following percentages, in heu of the reductions set out in note (iv), supra .-

437	•	rer	
Allowances up to £1,000	••	1	171
Allowances exceeding £1,	000, but not exceeding £	2.000 2	20
Anowances exceeding £2.(100		22 1
Allowances of Senators or	Members who are Minis	ters of State	20

(vi) By the Financial Relief Act 1935, assented to 9th October, 1935, each of the percentages set out in note (v), supra, was reduced by 2½ per cent.

Date from which allowance to be reckoned-

By the Parkamentary Allowances Act 1902 detailed provisions were made as to the date from which the allowance should, in various cases, be reckoned. These provisions were superseded or amended in 1907, 1920 and 1928. The provisions in force at the date of the preparation of this volume are contained in the Parkamentary Allowances Act 1920, as amended by the Parkamentary Allowances Act 1928.

Privileges, &c.,

49.(1)(a) The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

GENERAL NOTES—(1) The only powers, privileges and immunities declared in pursuance of this section up to the date of the preparation of this volume were those declared by the Parliamentary Papers Act 1908, in relation to the authorization of the publication of parliamentary papers

NOTES OF CASES—(a) As to the power of the Parliament to legislate as to the authority given to the Houses of Parliament under s 128 in relation to the alteration of the Constitution, see judgment of Isaacs, J. (dissenting) in Colonial Sugar Refining Co. Ltd. v. Attorney-General for the Commonwealth, (1912) 15 C.I. R. 182, at p. 217; 18 A.I.R. 429, at p 442

Section applied by Dixon, J. for the purpose of ascertaining whether a regulation laid before the Senate by a private Senate had been laid before it in accordance with the manner in which documents are dealt with by the House of Commons.

Dignan v. Australian Steamships Pty. Itd., (1931) 45 C.L.R. 188, at p. 205; 37 A.I.R. 213, at p. 217.

50. Each House of the Parliament may make rules and orders Rules and orders. with respect to-

(i.) The mode in which its powers, privileges, and immunities may be exercised and upheld:

(ii.) The order and conduct of its business and proceedings either separately or jointly with the other House.

PART V .- POWERS OF THE PARLIAMENT.

POWERS OF THE PARLIAMENT.

51.(a) The Parliament shall, subject to this Constitution,(b) have Legislative power to make laws for the peace, order, and good government(c) of powers of the Parliament. the Commonwealth with respect to(d):-

Notes of Cases—(a) Application of maxims in interpretation of Constitution—As to the particular application to Constitutions of the maxims expression fact cossure tactium and expression units est exclusion alterius, see Federated Amalgamated Government Railway and Trainvay Service Association, New South Wales Railway Truffic Employees Association, (1906) 4 C.L.R. 488, at p. 534, 13 4 L.R. 273, at p. 279, Austrahan Boot Trade Employees Federation v. Whydrow & Co., (1910) 10 C.L.R. 266, at p. 291; 16 A.L.R. 188, at p. 193.

Wales Rankray Truffic Employees Association, (1906) 4 G.L.R. 488, at p. 534, 13 4 L.R. 273, at p. 279, Australian Boot Trade Employees Federation v. Whybrow & Co., (1910) 10 G.L.R. 266, at p. 291; 16 A.L.R. 185, at p. 193.

Omparison with United States Constitution—Comparison between distribution of powers under Commonwealth and United States Constitutions, and form in which powers conferred discussed, by High Court. Deakin v. Webb., Lyne v. Webb., (1904) 1 G.L.R. 585, at p. 605, 10 A.L.R. 237, at p. 240, Baxter v. Commissioners of Taxatron, N.S.W., (1907) 1 G.L.R. 585, at p. 605, 10 A.L.R. 2313, at p. 323. See also Supplementary Notes, infra. pp. 107–110

States—Exient to which bound by Commonwealth laws—As to the effect of this section, either alone or jointly with covering clause 5, in binding the Crown in right of a State, so far as any law validly made under it purported to affect the Crown in that right, see Amalgamated Society of Engineers v. Adelaids Steamship Co. Ltd., (1920) 28 G.L.R. 129, at p. 153, (see also pp. 166, 171, 1747), 26 A.L.R. 337, (see also pp. 343, 349, 331-3)

As to whether this section authorizes the imposition on the States of obligations which are not subject to the condition that funds shall be appropriated by the Pailiamients of the States, see, Australian Railways Union v. Victorian Railways Commissioners, (1930) 44 G.L.R. 319, at pp. 352, 399, 37 A.L.R. 37, at pp. 44, 59, New South Wales v. Commonwealth (No.1), (1932) 46 G.L.K. 155, at pp. 175–7, 38 A.L.R. 245, at pp. 249–50

Retrospective laws—power to pass—As to the power of the Parliament to pass retrospective laws—power to find the power of the Parliament to impose taxation retrospectively, see Donohoe v. Britz, (1904) 1 C.L.R. 391, at p. 402; 10 A.L.R. (C.N.) 49. See also Supplementary Notes, mfra, p. 113.

As to whether the Parliament has power by retrospective legislation to make unlawful an act which was lawful at the time when it was done, see Donohoe v. Britz, (1904) 1 C.L.R. 391, at p. 402; 10 A.L.R. (C.N.) 49.

(C.N.) 49.

(C.N.) 49.

(b) Held by the High Court that the words "subject to this Constitution" render it necessary, in considering each placitum of s 51, over and beyond the general fundamental considerations applying to all the placita, to consider whether there is anything in the Constitution which falls within the express similation referred to in the words "subject to this Constitution". Analgamated Society of Engineers v. Adelaute Steamship Co. Ltd., (1920) 28 C.L.R. 129, at p 141; 26 A.L.R. 337, at p 340 See also Eastern Extension, Australiana, and Clinia Telegraph Co. Ltd. v. Federal Commissioner of Taxition, (1923) 38 C.L.R. 426, at p 451; 30 A.L.R. 444, at p. 152, Bradshaw v. Commonwealth, (1923) 36 C.L.R. 585, at p. 596; 31 A.L.R. 441, at p. 446.
Fact that legislative powers granted by s. 51 are subject to the Constitution, discussed by High Court. Duncan v. State of Queensland, (1916) 22 C.L.R. 556, at pp. 573, 588, 618, 636-7, 639, 644, 22 A.L.R. 465, at pp. 473, 478, 490, 497-8, 500

(c) As to the plenary nature of the legislative power conveved by these words. see Colomal Sumar

Duncan v. State of Queensland, (1916) 22 C.L.R 556, at pp. 573, 588, 618, 636-7, 639, 644, 22 A.L.R. 465, at pp. 473, 478, 490, 497-8, 500

(c) As to the plenary nature of the legislative power conveyed by these words, see Colomal Sugar Refining Co. Lid v Irring, 1903 St R Qd. 261, at pp. 272, 279, D'Enden v. Pedder, (1904) I C.L.R. 91, at pp. 110-113; 10 A I.R. (C.N.) 30, Robelines v Benan, (1906) 4 C.L.R. 305, at pp. 404, 415, 419-20, 13 A.L.R. 168, at pp. 170, 175, 177-8; R. v. Kidman, (1915) 20 C.L.R. 425, at p. 459; 21 A L.R. 405, at p. 417; Amalgamated Society of Engineers v. Adelaide Steamship Co. Lid., (1920) 28 C.L.R. 129, at p. 165; 26 A L.R. 337, at p. 348

As to the plenary nature of the legislative power conferred upon the Commonwealth Pathament, and its power to delegate, see Baster v. Ah Way, (1909) 8 C.L.R. 626, at pp. 634-610, 642-646; 15 A.L.R. 603, at pp. 605-7, 608-10; Roche v. Kronheimer, (1921) 29 C.L.R. 329, at pp. 337, 340; 27 A.L.R. 254, at pp. 258-9; Huddart Parker Lid. v. Commonwealth, (1931) 44 C.L.R. 402, at p. 512, 37 A.L.R. 22, at p. 27; Victorian Stewdoring and General Contracting Co. Pty. Lid. and Mea'es v. Dignan, (1931) 46 C.L.R. 73, at pp. 83-4, 86-7, 89-102, 113-24, 38 A.L.R. 22, at pp. 24-32, 36-40, Crowe v. Commonwealth, (1935) 54 C.L.R. 69, at pp. 83, 84-5, 91, 94; 41 A.L.R. 454, at pp. 447, 448, 450 451.

Terms in which legislative power of Commonwealth is conferred, discussed by Privy Council. Attorney-General for the Commonwealth v. Colonial Sugar Refining Co. Lid., 1914 A.C. 237, at pp. 254-5; 17 C.L.R. 644, at pp. 653-4, 20 A.L.R. 22, at p. 27

Meaning of terms "peace, order, and good government of the Commonwealth" discussed by High Court. R. v. Commonwealth v. Colonial Sugar Refining Co. Lid., 1914 A.C. 237, at pp. 254-5; 17 C.L.R. 546, at p. 609; 19 A.L.R. 55, at p. 53

(d) Meaning of words "with respect to" discussed by High Court. Attorney-General for New South Wales v Brewery Employees Union of New South Wales, (1908) 6 C.L.R. 469, at p. 610; 14 A.L.R. 565, at

214, 222, 22 A L B. 86, at pp. 88, 89, 92, Farey v. Burvett, (1916) 21 C.L.B. 433, at p. 457, 22 A L B. 201, at p. 211, Stemp v Australian Glass Manufacturers Co Ltd. (1917) 23 C L B. 226, at p. 243, 23 A.L.B. 273, at p. 280, Waterside Workers' Federation of Australia v. Commonwealth Steamship Owners Association, (1920) 28 C.L.B. 209, at pp. 232, 242, 26 A L B. 233, at pp. 242, 246; Commonwealth v. Queensland, (1920) 29 C.L.B. 1, at op. 20-1; 27 A.L.B. 73, at p. 81; R. v. Mecfariane; Exparte O'Flanagan and O'Kelly, (1923) 32 C.L.B. 518, at pp. 557, 574; 29 A.L.B. 553, at pp. 369, 376.

Test for ascertaining whether a law is a law "with respect to "a particular subject, discussed by High Court, Kuddart Porker & Co. Pty. Ltd. v Moorehead, (1909) 8 C.L.B. 330, at pp. 410-5; 15 A.L.B. 241, at pp. 271-2, W & A. McArthur Ltd v. Queensland, (1920) 8 C.L.B. 550, at p. 565; 27 A.L.B. 44, at pp. 271-2, W & A. McArthur Ltd v. Queensland, (1920) 8 C.L.B. 580, at pp. 81, 116-7, 32 A.L.B. 46, at pp. 58-9, 72-3; Victoria v. The Commonwealth, (1925) 37 C.L.B. 38, at pp. 81, 116-7, v. New South Wales, Exparte Beavis, (1928) 42 C L.B. 162, pp. 199-202; 35 A.L.B. 1, at pp. 19-4; In re Judiciary and Navigation Acts (1921) 29 C.L.B. 257, at pp. 269, 273, 27 A.L.B. 193, at pp. 196, 198, George Hudson Ltd. v Australian Timber Workers' Vinion, (1923) 32 C L.B. 413, at p. 450; 30 A.L.B. 13, at pp. 28 pp. 280

(i.)(a) Trade and commerce with other countries, and among the

NOTES OF CASES

(a) N.B. The notes on this placitum are arranged under the following headings:—
(i) General scope of this placitum, and whether exclusive or concurrent.
(ii) Meaning of "trade and commerce":
(iii) Power as regards trade with other countries.

(11) Invite as regards trude with other condities.
(1v) Invits and scope of interstate trade power.
(v) Exclusion of purely intra-State trade power.
(vi) Application to State operations of Commonwealth Acts passed under this placitum.
(vii) Effect of 8 92 on this placitum.
(viii) Effect of this placitum when read with 8 98

(i) General scope of this placitim, and whether exclusive or concurrent

(1) General scope of thus placetum, and whather exclusive or concurrent

As to whether the power conferred upon the Commonwealth by this plactum is a concurrent or an exclusive power, see Attorney-General of New South Wales v. Collector of Customs for N.S.W., (1908) 5 C.L.R. 818, at pp 834, 853: 14 A.L.R. 516, at pp. 521, 528; W. and A.M.CAthur Lid. v. Queensland, (1920) 28 C.L.R. 530, at p. 561, 27 A.L.R. 180, at pp. 521, 528; W. and A.M.CAthur Lid. v. Queensland, p. 464; 33 A.L.R. 68, at p. 70; Roughley v. New South Wales: Exparte Beavis, (1928) 42 C.L.R. 162, at pp. 198-202; 35 A.L.R. 1 at pp. 13-14; Exparte Nelson (No. 1), (1928) 42 C.L.R. 209, at p. 224; 35 A.L.R. 21, at p. 25. Challenger v. Rue, (1929) 24 Tas. L.R. 53; R. v. Vizzard; Exparte Hill, (1933) 50 C.L.R. 30, at p. 88, 40 A.L.R. 10, at p. 35.

Held by the Privy Council that, subject to the limitations of its territorial sovereignty and to s. 92. the Parliament of a State has concurrent power to legislate with respect to interstate trade and commerce. James v. Commonwealth, 1936 A.C. 578, 55 C.L.R. 1; 42 A.L.R. 333.

As to 'the power of the Parliament of the Commonwealth to Gelegate its functions under this plactum to any Board or person, and in particular to a State Board, see James v. Commonwealth, (1928) 41 C.L.R. 442, at pp. 458-80. Generally, as to the power of the Parliament to delegate its functions, see Expelmentary Notes, 1972, p. 113.

As to whether this power enables the Parliament or the Executive Government of the Commonwealth v. Australian Commonwealth Shipping Board, (1926) 89 C.L.R. 503; L.R. 503; 41 A.L.R. 61, at pp. 63-4. See also Attorney-General for Victoria v. Commonwealth usual proposes, see Commonwealth v. Australian Commonwealth Shipping Board, (1926) 89 C.L.R. 1, at p. 9; 33 A.L.R. 61, at pp. 63-4. See also Attorney-General for Victoria v. Commonwealth usual proposes, see Commonwealth v. Australian Commonwealth Shipping Board, (1926) 89 C.L.R. 1, at p. 9; 38 A.L.R. 61, at pp. 63-4. See also Attorney-General for Victoria v.

(ii) Meaning of "trade and commerce"

Meaning of "trade and commerce" discussed by High Court. W and A. McAsthur Ltd v. Queensland, (1920) 28 C.L.E. 530, at p. 565; 27 A.L.E. 130, at p. 144. And by Privy Council. James v. Commonwealth, 1936 A.C. 578; 55 C.L.E. 1; 42 A.L.E. 333. Held by the Privy Council that the trade and commerce to which this placitum applies has a wider range than the trade and commerce referred to in

commerce to which this placitum applies has a wider range than the trade and commerce referred to in a 22. Ibid.

Extent of power of Commonwealth to legislate with respect to trade and commerce discussed by High Court. Ex parte Nelson (No. 1), (1928) 42 C L R 209, at pp. 230-4, 239-240, 242, 252-4; 35 A.L.R. 21, at pp. 27-9, 31-2, 36-7; Ex parte Nelson (No. 2), (1929) 42 C L.R. 258, at pp. 264, 267, 272-5; 35 A.L.R. 177, at pp. 179-81, 183-4

Held by the High Court (Rich. Dixon and Evatt, JJ.; Starke, J. dissenting) that s. S of the Transport Workers Act 1928-1929—which gives the Governor-General power to make regulations with respect to the employment of transport workers—is a vaild exercise of the power of the Parliament to make laws with respect to trade and commerce. Huddart Parker Ltd. v. Commonwealth, (1931) 44 C.L.R. 182; 37 A.L.R. 22.

Held by the High Court that the Transport Workers (Waterside Employment) Regulations (S. R. 1931) No. 34) are within the power of the Parliament to make laws with respect to trade and commerce. Digman v. Australian Steamships Pty. Ltd., (1931) 45 C.L.R. 188; 37 A.L.R. 218.

Held by the High Court that it is within the power of the Parliament to confer upon the Governor-General the power, contained in s. 3 of the Transport Workers Act 1928-1929, to make regulations with respect to the employment of transport workers, and in particular for regulating the engagement, service and discharge of such workers, and the licensing of persons engaged as transport workers, and for the protection



of transport workers. Victorium Stevedoring and General Contracting Co Pty. Ltd and Meakes v. Dignam, (1931) 46 C.L.R. 73; 33 A.L.R. 22 Held also that regulations made in exercise of such power, although they restricted the loading and unloading of interstate and overseas vessels to members of a specified industrial union, and to returned scalors and soldiers, and may have been made in pursuance of the industrial policy of the Executive, were, nevertheless, within the trade and commerce power conferred by this placifium. Poid.

(iii) Power as regards trade with other countries.

(iii) Power as regards trade with other countries.

Held by the High Court that this placitum and placitum (ii) (taxation) empowered the Parliament to enact s. 52 (9) of the Coustoms Act 1991 under which the importation of goods specified by the Governor General by proclamation is prohibited. Baxter v. Ah Way, (1998) & C.L.E. 628; 15 A.L.E. 603

As to the power of the Parliament under this placitum to regulate the conditions under which goods may be exported to other countries, see Woodstoc Central Davy Co. Lid v. Commonwealth and Comptroller-General of Customs, (1912) 15 C.L.E. 211, at pp. 249, 252, 18 A.L.E. 403, at pp. 408, 407.

As to whether this placitum authorizes the enactment of s. 152 of the Customs Act 1901-1910—which provides for the alteration of contracts for the sale of goods of external origin, in consequence of alterations in the rates of daty—see Crespin & Son v. Colae Co-operative Farmers Ltd., (1916) 21 C.L.E. 205, at p. 223, 22 A.L.E. 86, at p. 92.

As to whether this placitum supports s. SAA of the Immigration Act 1901-1920—which empowers the Minister in certain events to refer to a Board the question whether certain persons not born in Australia should be deported from the Commonwealth—see Exparte Wilsh and Johnson: In re Vates, (1925) 37 C.L.E. 36, at pp. 66-70, 89-90, 94, 95, 99, 108, 115-6, 127, 136, 32 A.L.E. 46, at pp. 53-4, 62-5, 69, 72, 76, 80

Held by the High Court that the entry by the Municipal Council of Sydney into a contract for the rection of a steamrasing place in New South Walco—some of the material therefor being manufactured outside Australia—did not amount to an engagement by the Council in "trade and commerce with other countries" within the meaning of this placitum. R v Gates, Exparte Mulang, (1923) 41 C.L. E. 519.

The Dreaf Fruits Export Control Act 1921-1936 (Commonwealth) and regulations made thereunder purport to control the distribution oversees of dreaf fruits exported from Astralia and to renalise certain acts that may be done outside Australia. Held by the H

(14) Limits and scope of inter-state trade power.

(iv) Limits and scope of inter-state trade power.

As to the limits of the power to legislate with respect to interact trade, ace Williamson v. Ah On. (1926) 39 C.L.R. 95, at p. 123; 33 A.L.R. 13, at p. 24; McArihm (W. d. A.) Ltd. v. Queensland, (1926) 28 C.L.R. 530, 27 A.L.R. 130; James v. Commonwealth, 1936 A.C. 578, 55 C.L.R. 1; 12 A.L.R. 333

Held by the High Court that the legislative authority of the Commonwealth Parliament under the powers contained in sections 51 (i) and 38, so for as regards wages and terms of employment, does not extend further than to prohibit, for causes affecting interstate traffic, specific persons from being employed in such traffic, if indeed it extends of tar. Pederated Amalgamated &c. Association v. New South Wales Ravivay Traffic Employees Association, (1996) 4 C.L.R. 488; 13 A.L.R. 273 See also Jumburna Coal Mine No Laubilly v. Victorian Coal Africa Association, (1998) C.L.R. 209, at p. 317; 14 A.L.R. 701, at p. 704

As to the power of the Parliament of the Contagonwealth under this placifium to regulate the conduct of men in relation to acts of interstate trade and commerce, and the use of things employed in and about those acts, see New South Wales v. Commonwealth, (1915) 20 C.L.R. 54, at p. 100; 21 A.L.B. 122, at p. 10 1; 21 A.L.B. 122, at p. 10 2; 21 A.L.B. 122, at p. 10 1; 21 A.L.B. 122, at p. 10 1; 21 A.L.B. 122, at p. 10 1; 21 A.L.B. 122, and p. 12 A.L.B. 123, at p. 12 2.

at p 147
Question as to inconsistency between the regulation by the Commonwealth of certain portions of
Question as to inconsistency between the regulation discussed by High Court. Stock Motor Ploughs

interstate trade and commerce and State legislation, discussed by High Court. Stock Motor Ploughs Ltd. v Forsyth, (1932) 48 C L R. 128, at p. 148; 38 A L R. 408, at p. 415 Question as to when goods which have been the subject of interstate trade cease to be such, discussed by Stephen, J. (Supreme Court of New South Wales). Exparts Beath. Re Philippon, (1932) 19 W.N. N.S W) 76.

(v) Exclusion of purely intra-State trade

(v) Exclusion of purely intra-State trade

As to the effect of this placitum and s. 107 in forbidding to the Commonwealth the regulation of domestic trade and commerce, see R. v. Barger; Commonwealth v. McKay, (1908) 6 C L R. 11, at p. 57, 11 A LK. 374; Huddart Parker & Co. Pty. Ltd v. Moorehead, (1909) 8 C L R. 330, at p. 348, 350-4, 360-4, 366-72, 393, 402-4, 409, 411, 413, 415-6, 418-9, 15 A L R. 241, at pp. 247-9, 251-6, 262, 267-8, 270-4
Held by the High Court that it is a necessary implication from this placitum that the power of Parlament does not extend to trade and commerce within a State, and consequently the power of Parlament does not extend to trade and commerce within a State, and consequently the power of the Commonwealth Attorney-General of New South Wales v. Brivery Employees Union of New South Wales, (1908) 6 C L.R. 469, 14 A L R. 565. See also cases under sub heading (viii), nfra, p. 24
As to the invalidity of a provision in the Customs Act 1901 relating to the regulation of the internal affairs of a State, where such provision is not incidental to the regulation of importation, see Lyons v. Smart, (1908) 6 C L.R. 143, at pp. 147, 151, 14 A L R. 328, at pp. 329, 323

Held by the High Court that this placitum does not empower the Parliament to enact s. 4 of the Semant's Compensation Act 1909 which purports where also to regulate purely intra-State trade Consers of SS. Rakiba v. Wilson, (1910) 11 C L.R. 689, 17 A.L.R. 410.

As to the reservation to the States of the control of domestic trade except so far as it is taken away by express words or necessary implication, see R. v. Commonwealth Custo of Conclusion and Arbitration and Merchant Service Guild of Australasia, (1912) 15 C.L.R. 586, at pp. 593, 600; 19 A.L.R. 45, at pp. 464, 49.

Held by the High Court that that portion of s. 4 of the Air Navigation Act 1920 (C'th.) which purports their by the fight Court chart that portion of s. 2 of the Art Navigation Act 1320 (c in.) which purports to give the Governor-General power to make regulations for the purpose of providing for the control of air navigation generally throughout the Commonwealth, is invalid. R. v. Buryess: Exparte Henry, (judgment delivered 10th November, 1938)

As to whether, when interstate trade and intra-state trade are so intermingled that it is practically essential to control all of them as one subject-matter, the Commonwealth Parliament has power to deal with intra-state trade as well as with interstate trade, see wind, per Latham, CJ.

with intra-state trade as well as with interstate trade, see wind, per Latham, CJ.

(vi) Application to State operations of Commonwealth Acts passed under this placitum
As to the power of the Commonwealth under this placitum to affect the operations of State
Governments, see Aironey-General of New South Wales v. Collector of Customs to New South Wales, (1908)
5 C.L.R. 818; 14 A.L. R. 516 (This case overruled the decision of the Full Court of the Supreme Court
of New South Wales in Attorney-General of New South Wales v. Collector of Customs for New South Wales,
(1908) 3 S.R., N.S.W., 115).

Reference to States in this placitum cited in support of the view that when the Constitution means
that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations,
the Constitution expressly says so. Merchant Service Guild of Australasia v. Commonwealth Steamship
Owners Association (No. 2), (1920) 28 C L.R. 436, at p. 451; 27 A.L.R. 161, at p. 164.

Generally as to the application of Commonwealth Acts to State operations, see Supplementary Notes.
infra, pp. 108-110.

(vii) Effect of s. 92 on this placitum.

(vii) Eject of \$.92 of the Constitution upon the powers conferred upon the Parliament of the Commonwealth by this plantium discussed by High Court. New South Wales v. Commonwealth, (1915) 20 C L R. 54, at pp. 104-5. 21 A L. R. 128, at pp. 149, Duncan v. State of Queensland, (1916) 22 C L. R. 550. 22 A L. R. 465, W. and A. McArthur Litd. v. State of Queensland, (1820) 28 C L R. 530, 27 A L. R. 130 (overruling Duncan v. State of Queensland, supra), Huddart Parker Lid. v. Commonwealth, (1931) 44 C L R. 492, 37 A L R. 22, R. v. Viczural, Expurie Hill., (1933) 50 C L R. 30, at p. 85, 40 A L. R. 16, at p. 34; James v. Commonwealth, (1935) 52 C L R. 570, 41 A L R. 275. And by Privy Council. James v. Commonwealth, 1936 A C 578, 55 C L R. 1, 42 A L. R. 333.

(viii) Effect of this placitum when read with s. 98.

(viii) Effect of this placitum when read with s. 98.

Held by the High Court that the powers contained in this paragraph are not enlarged by s. 98 of the Constitution Owners of SS Kalibia v Wilson, (1910) 11 C L R. 689, 17 A L R. 410.

Held by the High Court (Isaacs, Gavan Duffy, Powers and Rich, JJ, Griffith, CJ, and Barton, J dissenting) that this placitum, coupled with s. 98, confers upon the Commonwealth Parliament power to legislate as to navigation and shipping so far as couserns interstate traffic, and in particular to regulate the reciprocal rights and obligations of those engaged in carrying on that traffic by means of ships. Held therefore by the same Judges that the Seamen's Compensation Act 1911 is a valid exercise of the legislative power of the Commonwealth Parliament. Australian Steamshyps Limited v Midcolm, (1914) 19 C L R. 298, 21 A L R. 37.

Held by the High Court that the effect of s. 51 (1) and s. 98 of the Constitution is to endow the Parliament, not with a substantive power to deal with navigation and shipping at large, but only with power to deal with that subject in so far as it is relevant to interstate and foreign trade and commerce. Held, therefore, that the provisions of the Navigation Act 1912-1920 and the Schedules thereto and of the regulations made thereunder as to the manning of, and accommodation on, ships, to the extent that they purport to prescribe rules of conduct to be observed in respect of ships engaged solely in the domestic trade and commerce of a State are beyond the power of the Parliament of the Commonwealth, and are to that extent invalid. Newcastle and Hinter River Steamship Co Ltd v. Altorney-General for the Commonwealth, (1921) 29 C L R. 357, 27 A L R. 373.

and Hunter River Steamship Co Ltd v. Altorney-General for the Commonwealth, (1921) 29 CLR 357, 27 ALR 373

As to whether an intra-State vessel may be used for the purposes of interstate or foreign trade, although it may carry goods only between ports in the same State, see Newcastle and Hunter River Steamship Co. Ltd. v. Attorney-General for the Commonwealth, (1921) 29 CLR 357, at p. 376. As to whether this placitim, coupled with s. 98, excludes the operation of the Colonial Laws Validity Act on laws made by the Commonwealth Parliament with respect to navigation and shipping, and exempts the Commonwealth Parliament from the restrictions on colonial legislation imposed by s. 735 and 738 of the Merchant Shipping Act 1894, see Union Steamship Co of New Zealand Ltd v. Commonwealth, (1925) 36 CLR 130, at pp. 140-1, 147-164, 31 A.L. R. 260, at pp. 272-3, 275-282. As to whether this placitium coupled with s. 98, empowers the Parliament of the Commonwealth to confer on a Court of Marine Inquiry jurisdiction to inquire into a collision occurring between two steamships engaged in intra-State trade, when the collision occurred at a place a short distance outside the course ordinarily used by ships engaged in trade and commence with other countries or among the States (the two steamships having travirsed part of that course shortly before the collision took place), see R. v. Turner, Ex parte Marine Board of Hobart: Taxmama v. Commonwealth, (1927) 39 CLR 411, at pp. 424-8, 434-7, 442, 440, 452, 454: 33 ALR 174, at pp. 177-9, 181-2, 184, 187-9

As to whether is 478 of the Merchant Shipping Act 1894 enables the Parliament of the Commonwealth to after the nature of the jurisdiction exercised by any Commonwealth and State, see R. v. Turner, Ex parte Marine Board of Hobart, Taxmama v. Commonwealth, (1927) 39 CLR 411, 33 ALR 174.

(ii.) Taxation(a); but so as not to discriminate (b) between States or parts of States(c):

(a) Notes (d) are arranged under the following sub-headings .—
(i) Taxatron, general
(ii) Customs and Excese.
(iii) Estate Duty.
(iv) Income Tax.

(iv) Income Tux.

(v) Land Tax.

(v) Land Tax.

(i) Taxation, general.

Per Griffith, C J.: The taxation provided for in this placitum is federal taxation for federal purposes. Municipal Council of Sydney v. Commonwealth, (1904) 1 C L R 208, at p. 232; 10 A.L R. (C N.) 29, at p. 30. As to the application to the States of this exercise of the power of taxation, see Altoney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5 C.L.R 818; 14 A.L.R. 516.

Nature and limits of the taxation power conferred upon the Commonwealth Parliament by this placitum discussed by High Court R v Barger: Commonwealth v McKay, (1908) 6 C.L.R 41; 14 A.L.R. 374.

Effect of the reservation of powers to the States upon the power conferred by this placitum discussed by High Court. R v. Barger: Commonwealth v McKay, (1908) 6 C.L.R. 41, 14 A.L.R. 374.

As to whether the power of the Commonwealth to make laws with respect to taxation is wider than the United States power to lay and collect taxes, see Altoney-General for New South Wales v. Bervery Employees Union of New South Wales, (1908) 6 C.L.R. 409, at p. 614, 14 A.L.R. 565, at p. 614.

Held by the High Court that, in the exercise of the power of taxation conferred by this placitum, the Parliament in selecting subjects of taxation is entitled to take things as it finds them in rerum naturd, irrespective of any positive laws of the States prescribing rules to be observed with regard to the acquisition or devolution of formal title to property, or the institution of padicial proceedings with regard to it. Morgan v. Deputy Federal Commissioner of Land Tax, New South Wales, (1912) 15 C.L.R. 661; 19 A.L.R. 120.

Held by the High Court that the limitations imposed by s. 55 of the Constitution upon the making of laws imposing taxation apply only to such iaws as are made under the power conferred by this placitum, and not to laws made under the power contained in s. 122 to make laws for the government of Territories. Buchanan v. Commoswealth (1913) 16 C.L.R. 315; 19 A



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As to whether the Commonwealth could impose taxation upon municipal corporations created under State law, see Federated Municipal and Shire Council Employees' Union of Australia v. Melbourne Corporation, (1919) 26 C LR. 508, at p. 518, 25 A,LR. 309, at p. 313.

In war time the Executive Government of the Commonwealth entered into certain agreements with a manufacturer of wooltops, under which in consideration of the payment by the Company to the Government of a share of the profits (in the agreements called a "heence fee") the Government consented to the sale of the wooltops. As to whether the agreements (providing as they did for the payment of money to the Government as the price of consents) were taxation, and, being without Parliamentary authority, were void, see Commonwealth v Colonial Combing, Spinning and Weaving Co. Ltd., (1922) 31 C LR. 421, 29 A.L E 138

Held by the High Court that, on the principle laid down in the Engineers' Case, the assessment of Federal moome tax in respect of the salaries of persons employed in the Public Service and the Railway Service of the State of New South Wales was valid, that the persons in question were not exempt from such taxation, and that the Parliament of the Commonwealth had power to impose income tax upon them. Davoren v. Federal Commissioner of Taxation, (1923) 29 A L R 129

As to the wide nature of the power of "taxation" conferred on the Commonwealth Parliament, see Federal Commissioner of Taxation v. Munro British Imperial Oil Co. Ltd. v. Federal Commissioner of Taxation, (1926) 38 C L R 152, at pp 20, 203, 213-5, 32 A L R 339, at pp 357-8, 362-3. Executor Trustee and Agency Co of South Australiad v. Deputy Federal Commissioner of Taxation, (1928) 41 C L R 299, at p 310, 34 A L R 388, at p 392

Question as to whether a Commonwealth law, with respect to taxation could render vold, as inconsistent with it, a State law imposing direct taxation, discussed by High Court. Stock Molor Ploughs Ltd v Forsyth, (1932) 48 C L R 128, at p 148, 38 A, L R 468, at p. 415

(1) Customs and Excise

Held by the Full Court of Victoria that this placitum gives power to make laws declaring it an offence for an overseas ship, whose stores have been sealed upon her arrival at one Australian port from overseas, to enter another Australian port with seals broken. Kingston v Gadd, (1901) 27 V L.R. 417, 7 A L.R. 265, 23 A L.T. 152. Decision aftirined by Privy Council on appeal Peninsular and Oriental Steam Navigation Co v. Kingston, 1903 A C. 471, 9 A L.R. (C N) 65 See also Ex parte Oesselmann, (1902) 28 E., NS W, 438.

As to taxathon including customs and excise duties, see Colonial Sugar Refining Co Ltd. v. Irving, 1903 St R. Qd. 261, at pp 271-3, 279, 1906 A C 360, at p 366

As to the power of the Parliament of the Commonwealth to make a Tariff Act retroactive, and to impose the duties from the date of the resolution, see Colonial Sugar Refining Co. Ltd. v Irving, 1903 St.R. Qd. 261, at pp 271-3, 279; 1906 A C 360, at p 366

Held by the High Court that this power includes the power to levy duties of customs Attorney-General of New South Wales v Collector of Customs for New South Wales, (1908) 5 C L.R. 818, 11 A L.R. 516.

Held by the High Court (Griffith, C.J., Barton and O'Connor, JJ, Isaacs and Higgins, JJ, dissenting) that an Act purporting to impose duties of Excise on certain manufactured goods, with a proviso that the Act shall not apply to any such goods manufactured under satisfactory conditions of labour, is not in substance an Act to impose duties of Excise, but an Act to regulate the conditions of manufacture of the goods. R. v Barger: Commonwealth v. McKay, (1908) 6 C.L.R. 41; 14 A L B 374

As to the Customs Act 1901 being in some respects referable to the power of taxation contained in this placitum, see Lyons v Smart, (1908) 6 C.L.R. 41; 14 A L R 328, at p. 332.

Held by the High Court that this placitum and placitum (i) (trade and commerce) empower the Parliament to enact s, 52 (2) of the Customs Act 1901 under which the importation of goods may be prohibited by proclamation. Baxter v. Ah Way, (1909) 8 C.L.R. 626, 15 A L.R. 608.

Held by the High Court that s. 152 of the Customs Act 1901-1910 (as to the alteration of contracts for the sale of goods of external origin, where a rate of duty is altered) is a valid exercise of the power to make laws with respect to taxation. Crespin & Son v Colac Co-operative Farmers Ltd., (1916) 21 C.L.R. 205, 22 A.L.R. 86

205, 22 A. L. R. 86

Per Dixon, J.. The power of the Parliament to impose duties of customs and excise is conferred by this placitum as part of the power to make laws with respect to taxation. Vacuum Oil Co. Pty. Ltd. v. Queensland, (1934) 51 C.L.R. 108, at p. 125, 40 A.L.R. 154, at p. 160.

Held by the Supreme Court of South Australia (Murray, C.J.), that the substantial effect of the Apportionment clause (s 35) of the Estate Duty Assessment Act 1914 (Commonwealth) is to impose a duty on the beneficial interests taken under a will or intestacy, and therefore is not ultra vires the Parliament of the Commonwealth, but is within the power conferred by this placitum. In re Robert Barr Smith. Martin v Barr Smith. 1917 S.A.I. R 1

Held by the High Court that s. 8 (4) (a) of the Estate Duty Assessment Act 1914-1928—which provides for estate duty being levied and paid on the personal property, wherever situated, left by a person who at the time of his decease was domiciled in Australia—is within the power conferred upon the Parliament by this placitum. Trustees Executors and Agency Co. Ltd. v. Federal Commissioner of Taxation, (1933) 49 C.L.R. 220, 39 A.L.B. 367

by this placitum. Trustees Executors and Agency Co. Ltd. v. Federal Commissioner of Taxation, (1933)
49 C.L.R. 220, 39 A L.R. 367

(iv) Income Tax.

Held by the High Court that the provisions of s. 16 (2) of the Income Tax Assessment Act 19151918, which provides that "where, in the opinion of the Commissioner, a company has not in any year distributed to its members or shareholders a reasonable proportion of its taxable income, the taxable income of the company shall be deemed to have been distributed to the members or shareholders in proportion to their interests in the paid-up capital of the company, if the Commissioner is satisfied that the total tax payable on it as distributed income is greater than the tax payable on it by the company", are within the powers conferred by this placitum. Cornell v. Deputy Federal Commissioner of Taxation (South Australia), (1920) 29 C.L.R. 39; 26 A.L.R. 295.

Held by the High Court that the Parliament of the Commonwealth has power under this placitum to impose income tax on dividends received by a person resident and domiciled in England who holds shares in companies incorporated in England and Australia respectively, but carrying on business in Australia and deriving their main income from sources in Australia. Murray v. Federal Commissioner of Taxation, (1021) 20 C.L.R. 134; 27 A.L.R. 116.

Held by the High Court (Evatt, J.) that s 20(2) (b) of the Income Tax Assessment Act 1922-1932—which requires a company to pay income tax on the interest paid by it to any person, who is an absentee, on money raised by debentures of the Company and used in Australia—is a law with respect to taxation, and valid. Colonial Gax Association Ltd. v. Federal Commissioner of Taxation, (1934) 51 C.L.R. 172, at p. 189; 40 A.L.R. 187, at p. 193; 2 A.T.D. 457, at p. 464.

As to whether s. 67 (1) of the Income Tax Assessment Act 1922-1934, in imposing an additional tax or a minimum sum of £1, does in effect penalize an offence, and, if so, whether the doing of this otherwise than by means of the

(v) Land Tax.

Held by the High Court that the Land Tax Act 1910 and the Land Tax Assessment Act 1910 are an exercise of the power of the Commonwealth to make laws with respect to taxation. Osborne v. Commonwealth, (1911) 12 C.L.R. 321; 17 A.L.R. 242

Held by the Supreme Court of Victoria that s 63 of the Land Tax Assessment Act 1916 (Commonwealth)—which provides for the avoidance of contracts, agreements or arrangements, so far as they have or purport to have the purpose or effect of after, agreements or arrangements, swithin the powers conferred by this placitum Patterson v Furrell, 1912 V.L.R. 17, 17 A.L.R. 562, 33 A.L.T. 149

Held by the High Court that the provision in s 36 (2) of the Land Tax Assessment Act 1910, under which a hustand or wrife to whom land is transferred is deemed in certain events to be a joint owner, and as such liable to land tax, is ultra virse, not being incidental to the land taxation imposed by the Act. Waterhouse v. Deputy Federal Commissioner of Land Tax, South Australia, (1914) 17 C.L.R. 665, 20 A.L.R. 155.

Act. Waterhouse v. Deputy Federal Commissioner of Lana Tax, Soum American, (1912) 11 CLE 000, 20 A L R. 155.

Held by the High Court that the Land Tax Assessment Act 1910-1914 of the Commonwealth is not invalid—in so far as it imposes a tax upon Crown leaseholds—as being an Act attempting to control the administration of Crown lands. Nor is travalid—in so far as it purports to impose taxation upon shareholders of companies in respect of land owned by the companies—as not being land taxation Attorney-General for Queensland v Attorney-General for the Commonwealth, (1915) 20 C.L.R. 148; 21 A.L.R. 221. (Special leave to appeal to the Privy Council from this decision refused by Privy Council after full argument Attorney-General for Queensland v. Attorney-General for the Commonwealth, (1916) 22 C.L.R. 322, 23 A.L.R. 85)

after full argument Attorney-General for Queensland v. Attorney-General for the Commonwealth, (1916) 22 C.L.R. 322, 23 A L R 85)

(b) Held by the Full Court of the Supreme Court of Queensland and by the Privy Council that s 5 of the Excise Tartif 1902—which allowed an exemption in the case of goods on which customs or excise cuties had been paid under State legislation before 8th October, 1901—was not a discrimination between States within the meaning of this placitum, as the rule laid down by the Act is a general one applicable to all the States alike, and the fact that it operates unequally in the several States arises not from anything done by the Perliament, but from the inequality of the duties previously imposed by the States Colonial Sugar Refining Co Ltd v. Irring, 1903 St R.Qd. 251, 1906 A C 360

Held by the High Court that an Act purporting to impose duties of excise on certain manufactured goods, with a proviso that the Act shall not apply to any such goods manufactured under conditions fixed by tribunals having power to fix different conditions for different States or areas, is invalid as authorizing discrimination, and therefore discriminations for different States or parts of States within the meaning of this placitum R v. Barger: Commonwealth v. McKey, (1908) 6 C L R. 41; 14 A.L R. 374.

Similarity of prohibition of discrimination, contained in this placitum, to the prohibition of the granting of preference, contained in a 99, discussed by High Court. R v Barger: Commonwealth v. McKey, (1908) 6 C L R. 41; at pp 32, 105–111; 14 A.L.R. 374, at pp 384, 392–4; see also James v. Commonwealth v. McKey, (1908) 6 C L R. 41; at pp 32, 105–111; 14 A.L.R. 374, at pp 384, 392–4; see also James v. Commonwealth v. McKey, (1908) 6 C L R. 442, at pp. 455, 460–2

Held by the High Court that the provisions of Income Tax Regulations 46 and 46A and Table III of those Regulations (S. R. 1918, No. 315), which purported to fix different amounts as the fair average value of investock in different States discriminated be

in New South Wales v. Commonwealth (No 1). (1932), 43 C L.R 155, at pp. 200, 223, 38 A.L.R 245, at pp. 260, 269
Nature of the discrimination forbidden by this placitum discussed by High Court Elliott v Commonwealth, (1936) 54 C.L.R. 657, at p. 666, 42 A.L.R. 174, at p. 176.

(c) Meaning of "States or parts of States" discussed by High Court. R v. Barger; Commonwealth v. McKay, (1908) 6 C.L.R. 41; 14 A L.R. 374, Elliott v. Commonwealth, (1936) 54 C.L.R. 657; 42 A.L.R. 374. Reference to States in this placitum cited in support of the view that when the Constitution means that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations the Constitution expressly says so. Merchant Service Guild of Australasia v. Commonwealth Steamship Cumera Association (No 2), (1920) 28 C.L.R. 436, at p. 451; 27 A.L.R.-161, at p. 164.

(iii.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Common $wealth^{(a)}$:

Notes of Cases.—(a) As to whether the Parliament is precluded by the limitation contained in this paragraph from attempting to equalize the conditions which nature has made unequal, see R. v. Barger, Commonwealth V McKay, (1908) 6 C.L.B. 41, at p. 70; 14 A.L.B. 374, at p. 379.

As to whether the Commonwealth Court of Conciliation and Arbitration can be given jurisdiction to declare whether the conditions of employment observed by a claimant for bounty are fair and reasonable, see Is is Iron Bounty Act 1914: Expurte Minister for Trace and Customs, (1915) 9 C.A.B. 201.

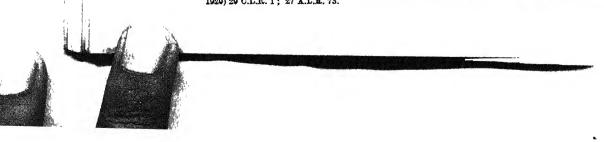
Nature of the uniformity required by this placitum discussed by High Court. Elliott v. Commonwealth, (1938) 54 C.L.B. 657, at p. 666; 42 A.L.B. 174, at p. 176.

Per Latham, C.J.: A law providing for a bounty on the export of goods would, and a law providing for a bounty on the production of goods would not, be a law of trade or commerce within the meaning of s. 99

Elliott v. Commonwealth, (1936) 54 C.L.B. 657, at p. 667; 42 A.L.B. 174, at p. 176.

(iv.)(a) Borrowing money on the public credit of the Common-

Notes of Cases.—(a) Held by the High Court (Knox, C.J., Isaacs, Higgins, Rich and Starke, JJ.) that section 52B of the Commonwealth Inscribed Slock Act 1911—1918—which provides that "the interest derived from stock or Treasury bonds shall not be liable to income tax under any law of the Commonwealth or a State unless the faterest is declared to be so liable by the prospectus relating to the loan on which the interest is payable "—is valid under the power conferred by this placitum. Commonwealth v. Queensiand, 1920) 29 C.L.R. 1; 27 A.L.R. 73.



(v.) Postal, telegraphic, telephonic, and other like services(a):

Notes of Cases—(a) As to whether this power authorizes the Parliament of the Commonwealth to make laws with respect to wireless telegraphy, see Attorney-General of New South Wales v Brewery Employees' Union of New South Wales, (1908) 6 C L R. 469, at p 501, 14 A L R. 565, at p 571

Held by the High Court (Latham, C J. Rich, Starke, Evatt and McTierman, JJ., Dinon, J dissenting) that this placitum gives the Parliament of the Commonwealth power to legislate with respect to radio broadcasting R v Rielan Exparte Williams, (1935) 54 C L R 262, 42 A L R 45

Held also that the Wireless Telegraphy Act 1905–1919 (Commonwealth) is a law with respect to a "telephonic or other like service" within the meaning of this placitum Ibid Meaning of "services" and "like services" discussed Ibid

As to the validity of the Post and Telegraph Act 1901–1923 and the Wireless Telegraphy Act 1905

(Commonwealth) under this placitum and placitum (i), see Junes v Commonwealth, 1936 A C 578, 55

C L R 1, 42 A L R 332

(vi.)(a) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:

Notes of Cases.—(a) As to whether this placitum confers exclusive power on the Commonwealth to make laws with respect to defence, see Baxler v Commissioners of Taxation (N S W), (1907) 4 C L R 1087, at p 1127, 13 A L R 313, at p 329

Held by the High Ccurt (Griffith, ('J, Barton, Isaacs, Higgins and Powers, JJ, Gavan Duffy and Rich, JJ, dissenting) that the legislative powers of the Commonwealth Parliament conferred by this placitum and placitum (axxix) include a power, during the state of war which commenced in 1914, to fix within limits of locality the highest price which, during the continuace of the war, may be charged for bread. Farey v Burvett, (1916) 21 C.L.R 433, 22 A L.R 201

As to whether it is within the defence power for the Parliament of the Commonwealth to enlarge the area of "enemies" as dealt with in Royal Proclamations relating to trading with the enemy, see Welsbach Light Co of Australasia Lid v Commonwealth of Australia, (1916) 22 C.L.R 288, at pp 2078-9, 288-7; 22 A L.R 398, at pp 400-2, 405

Held by the High Court (Barton, Isaacs, Gavan Duffy, Powers and Rich, JJ, Higgins, J, dissenting) that s. 4 of the Univolul Associations Act 1916-1917, in so far as it makes it an offence during the war 1914-1918 to encourage the destruction or miury of property, is a valid exercise of the defence power conferred by this placitum and placitum (xxxix) Pankhursi v. Kiernan, (1917) 24 C.L.R 120; 24 A.L.R. 154.

As to the exclusive nature of the defence power which is assigned by this plantum to the Commonwealth and the limitation in Australia of the Royal prerogative as to war, to Commonwealth Ministers, see Joseph v Colonial Treasurer New South Wales, (1918) 25 ('L. R. 32, at pp. 40-7, 51, 53-5, 24 A. R.

wealth and the imitation in Australia of the Royal prerigative as to war, to Commonwealth Ministers, see Joseph v Colonial Treasurer New South Wales, (1918) 25 (' L. R. 32, at pp. 40-7, 51, 53-5, 24 A. L. R. 185, at pp. 190-1, 193-4

As to whether the Parliament of the Commonwealth has power under this placitum to enact a provision dealing with the deportation of aliens, see Ferrando v Peurce, (1918) 25 (° L. R. 241, at pp. 261-3, 274-6, 284-5, 24 A. L. R. 325, at pp. 331-2, 336-7, 339-40

Validity of a regulation giving to the Attorney-General power to direct the Public Trustee to sell shares which had been transferred to him by enemy shareholders, upheld as being within the defence power of the Commonwealth. Burlard v Oakley, (1918) 25 (° L. R. 422)

Held by the High Court that the power conferred by this placitum is not limited to the making of laws with respect to measures of defence to be taken within the territorial limits of the Commonwealth, and that therefore the War Precautions Act 1914-1916, so far as it deals with the recrutiment of forces for service outside Australia, is within that power Sickerdick v Ashton, (1918) 25 (° L. R. 506

As to the Wheat Marketing Arts 1915-1918 (Nict) not being an exercise of the war power, and as to that power being an exclusive power of the Commonwealth, see Australian Williag Oo Ltd., (1919) 26 (° L. R. 460, at pp. 474-5, 25 A. L. R. 243, at p. 249

Held by the High Court that s. 19 of the Australian Soldiers' Repatrication Fund, or by the Minister, or a State Repatrication Board, or a Laveal Committee, shall have the same priority with respect to defence as for a state Repatrication Board, or a Laveal Committee, shall have the same priority with respect to the payment of debts as if the money had been advanced by the Crown—is a valid exercise of the power conferred on the Commonwealth Parliament by this placitum to legislate with respect to defence Attorney-General (Commonwealth) v Bulding, (1920) 27 (° L. R. 305, 26 (° L. R. 588)

Held by the High Court that the p

Held by the Supreme Court of New South Wales (Harvey, J) that the provisions of the Treaty of Peace Act 1919 and the Regulations thereunder—the validity of which had been questioned on grounds other than those dealt with by the High Court in the case of Rochev Kronheimer—were intravires Cowper v Frankenberg. (1921) 21 S R (N S W) 388, at p. 395

As to whether it would be possible to deport, under the defence power, a person whose presence is a hindrance or obstruction to the peace, order and good government of the Commonwealth, see Ex parte Walsh and Johnson. In re Ydets, (1925) 37 C L R. 36, at p 95; 32 A L R 46, at p 64

As to whether this power, coupled with the power contained in plactum (xxix), authorizes the establishment of businesses for the purposes of trade and wholly unconnected with any purpose of navel defence, see Commonwealth v Australian Commonwealth Shipping Board, (1926) 39 C L R 1, at p 9, 33 A.L R. 61, at p. 64

Question whether the Treaty of Peace Act 1919 is a law with respect to naval and military defence or a law with respect to External affairs, discussed by High Court (Evatt, J) Victorian Steredoring and General Contracting Co. Pty. Ltd. and Meakes v. Dijnan, (1931) 46 C L R 73, at p. 122, 38 A.L R. 22, at p. 40.

at p. 40.

As to whether the constitutional power of the Commonwealth to accept the handate for New Guinea is derived from this placitum, see Joiley v Mainka, (1933) 49 C L R. 242, at p 250, 39 A.L R. 508, at p 508

The Commonwealth Government established a clothing factory in Melbourne for the purpose of making naval and military uniforms for the defence forces and uniforms for postal employees. In time of peace, the operations of the factory included the supply of uniforms for other departments of the Commonwealth and also for State officers and for employees in various public athlites and institutions in the State and for some private persons. The Governor-General deemed such peace time operations of the factory necessary for the efficient defence of the Commonwealth inasmuch as the maintenance intact of the trained complement of the factory would assist in meeting war-time demands. In an action by the Attorney-General for Victoria, ex relations, for a declaration that such operation of the factory was ultra vires the Commonwealth, and for an injunction, it was held by the High Court (Gavan Duffy, CJ, Rich, Evart and McTiernan, JJ; Starke, J dissenting) that the operation of the factory for such purposes was authorized by the Defence Act, and was within the defence power of the Commonwealth Legislature. Attorney-General for Victoria v. Commonwealth, (1935) 52 C.L.R. 533; 41 A.L.R. 246

- (vii.) Lighthouses, lightships, beacons and buoys:
- (viii.) Astronomical and meteorological observations:
 - (ix.)(a) Quarantine:

NOTES OF CASES —(a) As to the power of the Commonwealth under this placitum to interfere with the operations of State Governments, see Attorney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5 C.L.R. 818, at pp. 833, 842; 14 A L R. 516, at pp. 521, 524.

As to quarantine being a concurrent power, see Ex parte Nelson (No. 1), (1928) 42 C.L.R. 209, at pp. 217, 249; 35 A.L.R. 21, at pp. 22, 35.

- (x) Fisheries in Australian waters beyond territorial limits:
- (xi) Census and statistics:
- (xii.)(a) Currency, coinage, and legal tender:

NOTES OF CASES.—(a) As to whether this placitum empowers the Parliament of the Commonwealth regulate the domestic affairs of the States, see $R \ v \ Barger$; Commonwealth v. McKay, (1908) 6 C.L.B. to regulate the domestic affairs of the State, at p 60, 14 A.L.R 374, at p 379.

(xiii.)(a) Banking(b), other than State banking(c); also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:

Notes of Cases -(a) As to whether this placitum empowers the Parliament of the Commonwealth to regulate the domestic affairs of the States, see R. v. Barger, Commonwealth v. McKay, (1908) 6 C.L.R. 41, at p. 69; 14 A.L.R. 374, at p. 379.

(b) As to whether the Commonwealth Parliament could, under this placitum, make laws imposing on bankers an obligation to pay to their clerks compensation in the event of injury by accident, see Australian Steamships Limited v. Malcolm, (1914) 19 C.L.R. 298, at p. 309; 21 A.L.R. 37, at p. 40.

As to whether the Commonwealth Parliament has power, under this placitum, to create a corporation to carry on the business of banking, and as to whether such a corporation it created can be made an instrumentality of the Commonwealth Government, see Henrer v. Scott, (1914) 19 C.L.R. 381, at pp. 393, 395, 402; 21 A.L.R. 102, at pp 103-5, 107

As to whether this placitum gives the Parliament of the Commonwealth power to create an abstraction and call it a corporation, see Butterworth v. Commonwealth Bank of Australia, (1916) 22 C.L.R. 206; 22 A.L.R. 448.

As to the power of a State legislature to impose the commonwealth of Australia, (1916) 22 C.L.R. 206;

As to the power of a State legislature to impose taxation upon the property of a Bank within the State, and whether such a power is affected by the grant to the Parliament of the Commonwealth of the power contained in this placitum, see Deukin v. Webb; Lyne v. Webb, (1904) 1 C.L.R. 585, at p. 611; 10 A.L.R. 237, at p. 242.

All.R. 23 (, at p. 242.

As to the power of the Parliament under this placitum to create corporations, see Jumbunna Coal Mine No Liability v. Victorian Coal Miners' Association, (1908) 6 C.L.R. 309, at pp. 334, 355; 14 A.L.R. 761, at pp. 709, 717; Huddart Parker & Co. Pty. Itd. v. Moorehead, (1909) 8 C.L.R. 330, at p. 383; 15 A.L.R. 241, at p. 252.

As to the power of the Parliament of the Commonwealth to make laws with respect to banking irrespective of whether a Bank was established before or after 1901, see Ex parts Walsh and Johnson; In 70 Yates, (1925) 37 C.L.B. 36, at p. 81; 32 A L B. 46, at p. 59

In re Yates, (1925) 37 C.L.E. 36, at p. 81; 32 A L E. 46, at p. 59

(c) Reference to State banking in this plantium cited in support of the view that when the Constitution means that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations, the Constitution expressly says so Australiam Workers' Union v Adelande Mulling Co Ltd. (1919) 26.C.L.E. 460, at p. 471, 25 A.L.E. 243, at p. 243; Amalgamated Society of Engineers v. Adelande Steamship Co. Ltd., (1920) 28 C.L.E. 129, at pp. 158, 162; 26 A.L.E. 337, at pp. 345, 347; Merchant Service Guild of Australiasia v. Commonwealth Steamship Owners' Association (No. 2), (1920) 28 C.L.E. 436, at p. 451; 27 A.L.E. 161, at p. 164.

(xiv.)(a) Insurance, other than State insurance(b); also State insurance extending beyond the limits of the State con-

NOTES OF CASES,—(a) As to whether the Common realth Parliament could under this placitum make laws imposing on insurers an obligation to pay their clerks compensation in the event of injury by accident, see Australian Steamships Limited v Malcolm, (1914) 19 C.L.R. 298, at pp. 309, 326; 21 A.L.R. 37, at pp. 40, 46

(b) Reference to State insurance in this placitum cited in support of the view that when the Constitution means that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations, the Constitution expressly says so. Australian Workers' Union v. Adelaide Milling Co. Ltd., (1919) 26 C.L R. 460, at pp 471-2, 25 A L R. 243, at pp 248; Amalgamated Society of Enquieers v. Adelaide Steamship Co. Ltd., (1920) 28 C.L R. 129, at pp. 158, 162; 26 A L.R. 337, at pp. 345, 347, Merchant Service Guild of Australiana v. Commonwealth Steamship Owners' Association (No 2), (1920) 28 C.L R. 436, at pp. 451; 27 A L R. 161, at pp. 164.

(xv.)^(a) Weights and measures:

Notes of Cases—(a) As to the power of the Commonwealth under this placitum to interfere with the operations of State Governments, see Attorney-General of New South Wales v. Collector of Custome for New South Wales, (1908) 5 C L.E. 818, at p. 833; 14 A L R. 516, at p. 521. As to whether this placitum empowers the Parliament to regulate the domestic affairs of the States, see R. v Barger; Commonwealth v. McKay, (1908) 6 C.L.B. 41, at p. 69; 14 A.L.R. 374, at p. 379. As to whether this power of the Commonwealth is wider than the United States power to fix the standard of weights and measures, see Attorney-General for New South Wales v. Brewery Employees' Union of New South Wales (1908) 6 C.L.R. 469, at p. 614; 14 A.L.R. 565, at p. 614.

(xvi.)(a) Bills of exchange and promissory notes(b):

NOTES OF CASES —(a) As to whether this placitum empowers the Parliament of the Commonwealth to regulate the domestic affairs of the States, see R. v Barger; Commonwealth v. McKay, (1908) 6 C L R. 41, at p. 69, 14 A L R 374, at p. 379

(b) As to whether the meaning of "bills of exchange and promissory notes" in this placitum differs in any way from the meaning which those words bore in 1900, see Attorney-General for New South Wales v. Brewery Employees' Union of New South Wales (1908) 6 C L.R. 469, at pp. 601, 610, 14 A.L.R. 565, at pp. 609, 612.

(xvii.)(a) Bankruptcy and insolvency:

Notes of Cases.—(a) As to whether this plantum empowers the Parliament of the Commonwealth to regulate the domestic affairs of the States, see R v. Barger; Commonwealth v. McKay, (1908) 6 C.L.B. 41, at p. 69; 14 A.L.R. 374, at p. 379.

As to whether the power of the Commonwealth to legislate with respect to bankruptcy and insolvency could be neutralized by the enactment by a State that no person under a specified age should have the capacity to become insolvent, see Attorney-General for New South Wales v. Brewery Employees' Union of New South Wales (1908) 6 C.L.R. 469, at p. 585; 14 A.L.R. 565, at p. 603.

As to the validity of certain provisions of the Bankruptcy Act 1924-1928 purporting to give Courts power to delegate certain powers to Registrars, see Le Mesurier v. Connor, (1929) 42 C.L.B. 481; 36 A.L.R. 41, 1 A B C. 97.

Held by the High Court—(1) that s. 77 (iii.) of the Constitution, considered with this placitum, confers simple power upon the Parliament to bestow upon State Courts all powers appropriate to bankruptcy jurisdiction and all authority incidental to the exercise of such powers, including a power enabling such Courts in their bankruptcy jurisdiction to direct and authorize the performance of ministerial acts; (2) that so much of ss. 12 (5) and 23 of the Bankruptcy Act 1924-1929 as enables a State Court exercising Federal jurisdiction in bankruptcy to give directions or authority to the Federal Registrars to perform ministerial acts and places upon the Registrars an obligation to conform to such directions and execute such authority, is valid; (3) that the issue of a bankruptcy notice for the purpose of ss. 52 (j) and 53 of the Bankruptcy Act 1924-1929 as entirely nunisterial. Bend v. George A. Bond & Co. Lid. and Bond's Industries Ltd... (1930) 44 C.L. B. 11; 36 A.L.R. 298 9 A.R.C. 141.

As to the Bankruptcy Act 1924 (Commonwealth), passed under this placitum, superseding State Insolvency levislation, see Inglis v. Dalgety & Co. Ltd. and Official Receiver, (1930) 2 A.B.C. 194. See also Rofe v. Grant 1932 S.R. N.S.W. 354; 4 A.B.C. 168.

Held by the Federal Court of Bankruptcy that s. 155 (2) of the Bankruptcy Act 1924-1930 (Commonwealth)—in conferring on the Court power to make an order for the administration in bankruptcy of a deceased action's estate—is not ultra wires the power conferred on the Parliament of the Commonwealth by this placitum. R. Parwirenta, (1930) 3 A.B.C. 15

Held by the High Court that s. 101 of the Bankruptcy Act 1924-1930, in its application to allowances payable to a member of the Legislative Assembly of New South Wales under s. 28 of the Constitution Act 1902 (N.S.W.) is a valid exercise of the power vested in the Parliament of the Commonwealth by this placitum. Stuart-Robertson v. Lloyd, (1932) 47 C.L.R. 182, 38 A.L.R. 369, 5 A.B.C. 267

(xviii.) Copyrights, patents of inventions and designs, and trade

NOTES OF CASES —(a) Held by the High Court (Grifith, CJ, Barton and O'Connor, JJ; Isaacs and Higgms, JJ, dissenting) that Workers' Trade Marks, as dealt with and defined in the Trade Marks Act 1905, Part VII, are not trade marks within the meaning of this placitum Attorney-General of New South Wales v Brunery Enaployees' Union of New South Wales, (1903) 6 C L.R. 469; 14 A.L.R. 565 Meaning of the term "trade marks" discussed. Ibid

(xix.) Naturalization(a) and aliens(b):

Notes of Cable —(a) Held by the High Court (Stacke, J) that s. 11 of the Naturalization Act 1903—1917—which gives the Governot-General power to revoke a pertificate of naturalization—is a law relating to naturalization, and therefore within the power conferred on the Parliament of the Commonwealth by this plantium Meyer v Poynton, (1920) 27 CLR 436. See also Exparte Johnson and Walsh. In re Yates, (1925) 37 CLR 36, at pp 87-9, 32 ALR 46, at pp 61-2

(b) Held by the High Court that the power to legislate with respect to aliens includes the power to determine the conditions upon which they may be permitted to enter and remain in the country, and the conditions under which they may be deported from it. Robtelmes v Brenan, (1906) 4 C L R. 395; 13

conditions under which they may be deported from it. Robtelmes v Brenan, (1906) 4 C L R. 395; 13 A L R. 168.

Held by the High Court that the power to legislate for deportation includes power to impose any extra-territorial restraint which is necessary to make the deportation effective Robtelmes v. Brenan, (1906) 4 C L R. 395; 13 A L R. 168

As to whether the provision contained in s. 5 of the War Precautions Act 1914-1916 as to the deportation of aliens is pussed in pursuance of this placetum or by virtue of placetum (v.) relating to naval and military defence, see Perrando v Pearce, (1918) 25 C L.R. 241, at pp. 253, 270, 274, 285; 24 A L R. 325, at pp 328, 335-6, 340

Per Higgins, J. The Parliament could under this placetum pass a law for the expulsion and deportation of aliens. P. v Macfarlane Exparte O'Flunagan and O'Kelly, (1923) 32 C L R. 518, at p. 577; 29 A L.R. 353, at p 377.

Question as to whether Commonwealth legislation on the subject of aliens could be made to cover the field so as to exclude State legislation entirely, discussed by High Court. Stock Motor Ploughs Ltd. v. Forsyth, (1932) 48 C.L.R. 128, at p. 147; 38 A.L.R. 408, at p. 415.

(xx.)(a) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:

Notes of Cases—(a) As to whether this placitum empowers the Parliament of the Commonwealth to regulate the domestic affairs of the States, see R v. Barger; Commonwealth v. McKay, (1995) 3 C L.R. 41, at p. 69; 14 A L R. 374, at p. 379.

As to the power of the Parliament under this placitum to create corporations, see Jumbunua Coal Mine No Lability v. Victorian Coal Miners' Association, (1908) 6 C.L.R. 309, at pp. 334, 355; 14 A.L.R. 701, at pp. 709, 717.

Held by the High Court that this placitum does not confer on the Commonwealth Parliament power to create corporations, but the power is limited to legislation as to incregn corporations and trading and financial corporations created by State law. Extent of power conferred by the placitum discussed. Huddart Parker & Co. Pty. Lid. v. Moorehead, (1909) 8 C.L.R. 330; 15 A.L.R. 241.

Placitum eited by Barton, J. (dissenting) in support of the view that by the direct implication of this placitum municipal corporations created under a State law are protected from the legislative power of the Commonwealth. Federated Municipal and Shire Council Employees' Union of Australia v. Melbourne Corporation, (1919) 26 C.L.R. 508, at p. 518; 25 A.L.R. 319, at p. 313.

(xxi.) Marriage(a):

NOTES OF CASES —(a) As to the limitations upon the power of the Commonwealth to legislate with respect to marriage, and as to the meaning of the term, see Attorney-General for New South Wales v. Brewery Employees' Union of New South Wales, (1908) 8 C.L.R. 469, at pp. 585, 601, 610; 14 A.L.R. 565, at pp. 603, 609, 612



Commonwealth of Australia Constitution. [Sec. 51 (xxii)-(xxvii).

(xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights (a), and the custody and guardianship of

NOTES OF CASES —(a) As to the power of the Parhament to define the meaning of the expression "parental rights" and to determine who are "infants" for the purposes of this placitum, see Altorney-General for New South Wales v. Brewery Employees' Union of New South Wales, (1908) 6 C L R. 469, at pp. 602, 610; 14 A.L.R. 565, at pp. 602, 612

(xxiii.) Invalid(a) and old-age pensions:

NOTES OF CASES —(a) As to whether the Parliament could under this placitum enact a law empowering an official to decide whether a particular applicant for an invalid pension was an invalid or not, see Ex parte Walsh and Johnson , In re Yates, (1925) 37 C L.R. 36, at p 122 , 32 A.L.R. 46, at pp 74-5

(xxiv.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States(a):

Notes of Cases.—(a) Held by the Supreme Court of Victoria that this placitum does not give the Parliament of the Commonwealth power to authorize proceedings to be taken under the Impresement of Fraudulent Debtors Act of Victoria upon a judgment obtained in Tasmania and registered in Victoria under the Service and Execution of Process Act 1901. McNamara v. Miller, (1902) 28 V L R 327; 24 A L T 31, 8 A L R 170 Held also that the proceeding under the Impresement of Fraudulent Debtors Act is not a proceeding for the execution of a judgment within the meaning of this placetum Ibid Per Barton, J. This placetum cannot be relied on for a general displacement of State legislation by Federal legislation on the matters mentioned in the placitum, but the powers contained in the placitum are given to the Commonwealth as concurrent powers Renton v Renton, (1918) 25 C L R 291, at p 298, 25 A L R 1, at p 3 Held by the High Court that the power conferred by this placetum extends to the extra-territorial operation of writs of summons issued by the Courts of the States when served; and that it is incidental to the execution of that power that a defendant should be enabled to seek for and obtain from the plaintiff security for the costs of an action instituted by a writ to which extra-territorial operation is so given McGlew y New South Wales Malting Co. Ltd., (1918) 25 C.L.R. 416; 25 A.L.R. 87.

(xxv.) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States(a):

Notes of Cases.—(a) Per Barton, J.: This placitum cannot be relied on for a general displacement of State legislation by Federal legislation on the matters mentioned in the placitum, but the powers contained in the placitum are given to the Commonwealth as concurrent powers. Renton v. Renton, (1918) 25 C.L.R. 201, at p 298; 25 A L.R. 1, at p. 3.

(xxvi.)(a) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws:

Notes of Cases.—(a) As to whether this placitum confers on the Parliament of the Commonwealth power to legislate for the deportation of Pacific Island labourers, see *Robtelmes v. Brenan*, (1906) 4 C.L.R. 395, at p. 415, 13 A.L.R. 168, at p. 175.

(xxvii.)(a) Immigration(b) and emigration:

NOTES OF CASES.—(a) As to the power of the Commonwealth under this placitum to interfere with the operations of State Governments, see Attorney-General of New South Wales v Collector of Customs for New South Wales, (1908) 5 C.L.R. 818, at pp. 833, 842, 14 A.L. R. 516, at pp. 521, 524

(b) Meaning of Immigration.—As to whether "immigration" extends to the case of Australians who are merely absent from Australia on a visit animo revertend, see Attorney-General for the Commonwealth v. Ah Sheung, (1906) 4 C.L.R. 949; 12 A.L.R. 432.

Held by the High Court that a person whose permanent home is in Australia, and who therefore is a member of the Australian community is not, on arriving in Australia from abroad, an immigrant in respect of whose entry the Parliament can legislate under this placitum empowering the Parliament to make laws with respect to immigration. Meaning of "immigration" discussed. Potter v. Minahan, (1908) 7 CLR 277; 14 A.L.R. 635.

Held by the High Court that where a person born in Australia has left the Commonwealth, the question whether, when he attempts to re-enter the Commonwealth, he is an immigrant within the meaning of the Immigration Act 1901–1920 depends on whether he is as a fact coming back to Australia as to his home Donohez v Wong Sau, (1925) 36 CLR 404.

As to the power of the Commonwealth under this placitum to exclude any person, whether an alien or not, see Ah Yin v. Christic, (1907) 4 CLR. 1428, at pp. 1431, 1433, 1437, 13 A LR 372, at pp. 373, 875.

or not, see Ah Yun v. Christir, (1907) 4 C.L.R. 1428, at pp. 1431, 1433, 1437, 18 A U.R. 372, at pp. 373, 375.

Held by the High Court (Knox, C.J., Isaacs, Rich and Starke, JJ., Higgins, J. doubting) that the Parliament has power to legislate for the exclusion of British subjects and visitors. R. v. Macfarlane, Exparte O'Flanagan ana O'Kelly, (1923) 32 C.L. R. 518; 29 A L.R. 533.

As to whether immigration should or should not be construed in its narrower sense as connoting the idea of intended settlement or residence, or as including the entry into Australia of any person who in se entering is not coming home, see R. v. Macfarlane, Exparte O'Flanagan and O'Kelly, (1923) 32 C.L. R. 518, at pp. 533, 553-565, 575-7, 578, 580-3, 29 A L.R. 353, at pp. 350, 368-373, 377-80.

As to the fixed nature of the meaning of "immigration", see Attorney-General for New South Wales, 1908) 6 C.L. R. 469, at pp. 501, 14 A L.R. 565, at p. 571. Held by the High Court (Isaacs, Powers, Rich and Starke, JJ.; Knox, C.J., and Gavan Duffy, J. dissenting) that the Parliament of the Commonwealth has power, under this placitum combined with placitum (xxxix.), to cast upon a person prosecuted upon a charge of being a prohibited immigrant found within the Commonwealth the burden of proving that he is not an immigrant, as well as that he has not evaded an officer, and that, therefore, sub-sections (3), (3A) and (3B.) of s. 5 of the Immigration Act 1901-1925 are valid. Williamson v Ah On, (1926) 39 C.L. R. 95, 33 A.l. R. 13

Held by the High Court that the power of the Parliament to make laws with respect to immigration enables it to impose upon the sing's agent, who is authorized on its behalf to perform the duties imposed by laws in force in the poit, an absolute liability to a penalty upon entry of an immigration which have upon the sing's agent, who is authorized on its behalf to perform the duties imposed by laws in force in the pott, an absolute hability to a penalty upon entry of an immigration, by the Minister to be, in his opinion, fro

Deportation—whether valid —As to whether this placitum confers power to legislate for the deportation of Pacific Island labourers, see Robtelmes v Brenan, (1906) 4 C L R 395, at pp. 415, 417, 420, 13 A L R

Deportation—whether valid —As to whether this placitum confers power to legislate for the deportation of Pacific Island labourers, see Robtelmes v Brenan, (1906) 4 C L R 395, at pp. 415, 417, 420, 13 A L R 168, at pp 175—7

Held by the High Court (Knox, C J., Isaacs, Rich and Starke JJ; Higgins J doubting) that s. 84 of the Immyration Act 1901—1920—which empowers the Minister, at any time within three years after the arrival in Australia of a person who was not born in Australia, and as to whom the Minister is satisfied that he is one of a class specified in the section, to call upon the person to appear before a Board to show cause why he should not be deported from the Commonwealth—is a law with respect to immigration, and is therefore within the legislative power of the Commonwealth—is a law with respect to immigration, and is therefore within the legislative power of the Commonwealth—is a law with respect to immigration, and is therefore within the legislative power of the Commonwealth—is a law with respect to immigration, and is therefore within the legislative power of the Commonwealth Parliament under this placetum. R v Macfarlane: Exparte O'Flanagan and O'Kelly, (1923) 32 C L R. 518; 29 A L R. 353.

Held by the High Court (Knox, C J., Isaacs, Rich and Starke, JJ.; Higgins, J. doubting) that the Parliament has power to legislate for the deportation of British subjects and visitors. R. v. Macfarlane; Exparte O'Flanagan and O'Kelly, (1923) 32 C L R. 518; 29 A L R. 353.

Held by the High Court (Knox, C J., Isaacs, Rich and Starke, JJ.; Higgins, J. dissenting) that s. 84 of the Immugration Act 1901—1920 — which empowers the Minister; satisfied has been concerned in acts directed to hindering the transport of goods, &c, to appear before a Board to show cause why he should not be deported from the Commonwealth—is a valid exercise of the power conferred upon the Commonwealth Parliament by this placitum. Exparte Walk and Johnson, In re Yates; (1925) 37 C L R. 36; 32 A L R. 46

Per Knox, C J., Higgins, J. dissent

Ibid

Per Higgins, J.: S. SAA of the Immigration Act 1901-1920 is not a law with respect to immigration, for it is intended to apply to members of the Australian community. Parliament having clearly stated the power which it intended to exercise by the Act—the power as to immigration—it cannot be treated as naving exercised some other power. It is a fundamental mistake to treat the power to make laws "with respect to immigration" as if it were a power to make laws with respect to immigrants. S. SAA of the Immigration Act 1901-1920, on its proper construction, was meant to apply to persons who had been immigrants, members of the Australian community; and it is invalid to that end. A Federal Act may be retrospective; but an Act under the Constitution as to immigration cannot deal with immigration which took place before the Constitution. Ibid

Postpring for willight of a federal Act the validity of the dictation test, provided by section 3 (a)

Detation test, validity of.—As to the validity of the dictation test provided by section 3 (a) of the Immigration Restriction Act 1901, see Chia Gee v. Martin, (1905) 3 C L.R. 649, 12 A L.R. 625.

(xxviii.) The influx of criminals:



(xxix.)(a) External affairs:

(xxix.)(a) External affairs:

Notes of Cases—(a) As to whether the Parliament of the Commonwealth has under this placitum power to legislate generally as to the surrender of fugitive offenders from other parts of the British Dominions, see McKelvey v. Maagher, (1969) 4 C L R. 255, at pp 278-9, 286, 12 A L R. 483, at pp 487, 489 See also McArthur v. Williams, (1936) 42 A L R. 239

As to whether this placitum confers power to legislate for the deportation of Pacific Island labourers, see Rotelmes v. Brinan, (1966) 4 C L R. 395, at p 415, 13 A L R. 168, at p 175.

As to the power of the Commonwealth under this placitum to interfere with the operations of State Governments, see Attorney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5 C L R. 818, at p 842, 14 A L R. 516, at p. 524.

As to whether the Treuty of Peace Act 1919 can be upheld under the power conferred by this placitum, and as to the limits (if any) on the power to legislate as to external affairs, see per Higgins, J in Roche v. Kronheimer, (1921) 29 C L R. 329, at p 338-9, 27 A L R. 254, at p 259, and per Evatt, J in Victorian Streedoring and General Contracting Co. Pyl. Lid. and Meakes v. Dynan, (1931) 46 C L R. 73 at p 122; 38 A L R. 32, at p. 40 Per Latham, C J . 1t could have been upheld under the power conferred by this placitum R v Burgess Ex parte Henry, (judgment delivered 10th November, 1936)

As to whether the constitutional power of the Commonwealth to pass laws for the purpose of giving effect to the Convention for the regulation of aerial navigation of 1919 R v. Burgess: Exparte Henry, (judgment delivered 10th November, 1936).

As to whether the power given by this placitum empowers the Commonwealth to pass laws for the purpose of giving effect to the Convention for the regulation of aerial navigation of 1919 R v. Burgess: Exparte Henry, (judgment delivered 10th November, 1936).

As to whether the power given by this placitum is limited to matters which m se concern External relations or to matters which may

(xxx.) The relations of the Commonwealth with the islands of the

(xxxi.)(a) The acquisition of property(b) on just terms(c) from any State or person for any purpose in respect of which the Parliament has power to make laws:

Notes of Cases —(a) As to whether property acquired by the Commonwealth under this placitum is subject to the exclusive legislative power of the Commonwealth, see In re Income Tux Acts (No 4) Wollaston's Cuse, (1902) 28 V L R. 357, at p 376, 8 A J. B 188, at p 193, 24 A L T 63 at p 66 As to the exemption from State stamp duty of a memorandum of transfer of land to the Commonwealth under the Property for Public Purposes Acquisition Act 1901, passed in pursuance of this placitum, see Commonwealth v New South Wales, (1906) 3 C L R 807, at pp 815-7, 822-5, 12 A L R 541, at pp 542-3, 542-8

Commonwealth v New South Wales, (1906) 3 C L R 807, at pp \$15-7, 822-5, 12 A L R 541, at pp 542-3, 545-6

Held by the High Court (Barton, Higgins, Gavan Duffy and Powers, J.J., Isaacs and Rich, J.J., dissenting) that when the Commonwealth, having acquired land under the power contained in this plactium, reconveys the land to the person from whom it acquired it, the transaction is one exempt from State Stamp duty even though the Commonwealth had agreed that the reconveyance should be free of cost to that person. Commonwealth v. New South Wales, (1918) 25 C L R 325, 24 A L R. 253.

Held by the High Court (Knox, C.J., Isaacs, Gavan Duffy and Starke, J.J., and—save that he dissented as to a certain class of land—Higgins, J.) that the Parhament of the Commonwealth is not empowered under this plactium and placitum (xxvi) to legislate requiring the Register of Titles to issue to the Commonwealth a certificate of title to certain classes of lands. Commonwealth v New South Wales, (1923) 33 C L R 1, 29 A L R 401

Question whether inclusion of this placitum in s 51 indicates that the generality of placitum (xxxv.) should be cut down so as to exclude State railways, discussed by High Court. Australian Railways Umon v, Victorian Railways Commissioners, (1930) 44 C L.R. 319; 37 A L R. 37

(b) As to whether the power conferred by this placitum includes a power of eminent domain, see New South Wales v. Commonwealth, (1915) 20 C L R. 54, at p. 78; 21 A L.R. 128, at p. 139.

As to whether this placitum includes power to the Commonwealth to acquire a lease, see R v. Registrar of Titles, Vict., Ex parts Commonwealth, (1915) 20 C L.R. 379, at pp. 394, 399, 21 A L R 435, at pp. 440, 442.

Held by the High Court (Knox, C.J., Isaacs and Starke J.J., and—save that he dissented as to the inclusion of royal metals—Higgins, J) that this placitum empowers the Parliament of the Commonwealth to make laws providing for the acquisition by the Commonwealth v. New South Wales, (1923) 33 C.L.R. 1; 29 A.L.R. 401.

(c) As to whether a provision in

(c) As to whether a provision in s. 28 of the Lands Acquisition Act 1906—providing that the enhancement in value of other land (adjoining the land taken or severed therefrom) of the person entitled to compensation by reason of the carrying out of the public purpose for which the acquired land was acquired, shall be taken into consideration—is valid as being an acquisition "on just terms" within the meaning of this placitum, see In re Smith and the Minister for Home and Territories, (1920) 28 C L.R. 513, at p. 529.

(xxxii.) The control(a) of railways(b) with respect to transport for the naval and military purposes of the Commonwealth:

NOTES OF CASES.—(a) As to the nature of the control of State railways exercisable by the Commonwealth under this placitum, see **Rederated Amalgamated &c. Association v New South Wales **Resilvay Traffic Employees Association, (1906) 4 C.L.R. 488, at p 545; 13 A.L.R. 279, at p. 284. See also Australian Steamships Ltd. v Malcolm, (1914) 19 C L.R. 298, at p. 320; 21 A.L.R. 37, at p. 44.

(b) Question whether inclusion of this placitum in s 51 indicates that the generality of placitum (xxxv) should be cut down so as to exclude State railways discussed by High Court Federated Amalgamated Government Rullway and Trumany Service Association v New South Vides Railway Traffic Employees Association, (1906) 4 C L R 488, at pp 535-8, 13 A L R 273, at pp 280-1, Australian Railways Union v Victorian Railways Commissioners, (1930) 44 C.L R 319, at pp 347-9, 388-9, 391, 37 A L.R 37, at pp 42-3, 58-0

Placitum cited by Gavan Duffy and Rich, JJ. (dissenting) in support of the view that it was inserted in the Constitution when it was feared that the powers conferred by placitum (vi)—naval and military defence—might be construed too narrowly. Farey v Burvett, (1916) 21 C L R 433, at p 464, 22 A L R

defence—migl 201, at p. 213

Sec. 51 (xxxii)-(xxxv).]

(xxxiii.)(a) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:

Notes of Cases —(a) Question whether inclusion of this placitum in s. 51 indicates that the generality of placitum (xxxv) should be cut down so as to exclude State railways, discussed by High Court Federated Amalgamated Government Railway and Transay Service Association v. New South Wates Railway Traffic Employees Association, (1905) 4 C. L. R. 488, at pp. 535—8; 13 A.L. R. 273, at pp. 230—1 Australian Railways Union v. Victorian Railways Commissioners, (1930) 44 C.L. R. 319, 37 A.L. R. 37

xxxiv.)(a) Railway construction and extension in any State with the consent of that State(b):

Notes of Cases.—(a) Question whether inclusion of this placitum in s 51 indicates that the generality of placitum (xxxv) should be cut down so as to exclude State railways, discussed by High Court Federated Anaigamated Government Railway and Tramway Service Association v New South Wates Railway Traffic Employees Association, (1906) 4 C L R 488, at pp 535-8; 13 A L R 273, at pp 280-1, Australian Railways Umon v Victorian Railways Commissioners, (1930) 44 C L R. 319; 37 A L R 37.

(b) As to the power of a State to bring a suit in the High Court under s 75, against the Commonwealth in respect of the construction of a railway by the Commonwealth in a State without the consent of the State, see Commonwealth v. New South Wales, (1923) 32 C L R 200, at p 213, 29 A L R 289, at p 294

(xxxv.)(a) (b) Conciliation and arbitration(c) for the prevention and settlement of industrial disputes(d) extending beyond the limits of any one State(e):

Notes of Cases.—

No Tes of Cases.—

No The notes on this placitum are arranged under the following headings —

(c) Whether placitum authorizes legislation effecting States, State undertakings and State industrial authorities

(b) Matters incidental to or arrang under placitum generally—

(i) Power to provide tribunal.

(ii) Power to make arbitration compulsory.

(iii) Incorporation and cancellation of associations

(iv) Whether awards must operate uniformly in different States.

(v) The making of awards inconsistent with State laws, awards, &c.

(vi) The making of awards inconsistent with State laws, awards, &c.

(vii) The continuance of an old award until a new award is made.

(viii) Power to declare a common rule.

(ix) The settlement of disputes by agreement.

(x) Power to prohibit lockouts or strikes.

(xii) Power to prohibit lockouts or strikes.

(xii) Power to prohibit incitements to commit breaches of Act.

(xiii) Limits on powers of Court as to wages, etc., which may be awarded.

(xiv) Scope of juradiction of Court.

(c) Meaning of words "Conciliation and Arbitration"

(d) Meaning of words "Extending beyond the limits of any one State"

(a) Whether placitum authorizes legislation affecting States, State undertakings and State industrial authorities—

Held by the High Court that this placitum does not either expressly or by necessary implication authorize interference by the Commonwealth with State instrumentalities. Federated Analgamated &c., Association v. New South Wales Railway Traffic Employees' Association, (1906) 4 C.L.R. 488; 13 A.L.R. 273. See also Australian Steamhips Lid. v. Malcolm, (1914) 19 C.L.R. 298, at p 320; 21 A.L.R. 37, at p. 44.

As to whether a municipal corporation which engages in a trading enterprise is subject to this placitum, see Federated Engenedrivers and Firemen's Association of Australia v Broken Hull Pty Co. Lid., (1911) 12 C.L.R. 398, at pp. 414, 426-8, 443, 451-3, 459-60; 17 A.L.R. 285, at pp. 290, 295, 501-2, 304-5, 508; Federated Enginedrivers and Firemen's Association of Australias v. Broken Hull Pty. Co. Lid. (1918) 16 C.L.R. 245, at pp. 261-2, 271, 279, 284; 19 A.L.R. 177, at pp. 181, 185, 187, 189.

(a) Whether placitum authorizes legislation affecting States, State undertalings and State industrial authorities—continued

placitims see Federated Engineerings and Ferment's Association of Australiana v Broken Hall Pty Co IEA (1911) 12 C L R 398, at pp 414, 425, 441, 451, 459-60, 17 A L R 285, at pp 290, 294-5, 301, 304-5, 388.

Sydney Harbour Trust struck out as a respondent to in award on the ground that it is a State in-trumentality. Australian Builders Labourers' Federate: A Milestrophy, (1918) 12 C L R 283, at to the power of the Parliament under this placitims. A law providing for the settlement of Industrial disputes in such operations as wheat marker are carried on by a State Government, see Australian Workers Union V deleted and the state of the State in-trument and the state of the State of the Parliament under this placitims. A state of the State

Held by the Commonwealth Court of Conciliation and Arbitration that local authorities engaged in industrial pursuits and rendering services to the public are subject to the jurisdiction of the Court Health Inspectors' Association of Australia v Lord Mayor, Aldermen, Councillors and Cutzens of the Cuty of Melbourne (1922) 16 C.A.R. 978

Inspectors' Association of Australia v Lord Mryor, Aldermen, Councillors and Citizens of the City of Melbourne (1922) 16 C.A.B. 978

Award made by the Commonwealth Court of Conciliation and Arbitration binding certain States in relation to employment on State vessels and ferries Merchant Service Guila of Australasia v Adelaude Steamship Co Ltd., (1923) 17 C.A.B. 489.

Author of the Merchant Service Guila of Australasia v Adelaude Steamship Co Ltd., (1923) 17 C.A.B. 680; and Amalgumated Society of Carpenters and Interopolitian Tramacay Employees Association v Melbourne and Metropolitian Tramacay Employees Association v Melbourne and Metropolitian Tramacay Employees Association of Carpenters and Joners of Australasia v. Anthony, (1923) 17 C.A.B. 680; and Amalgumated Society of Carpenters and Joners of Australasia v. Anthony, (1923) 17 C.A.B. 680; and Amalgumated Society of Carpenters and Joners of Australasia v. Anthony, (1923) 17 C.A.B. 687; and Australasia Vorkers Union v State of Tasmania, (1923) 18 C.A.B. 6

Application for registration of a general association of employees in industries in the State Public Services and in State instrumentalities refused on several grounds, including Eground that the association is not an association of employees in any recognized or proved specified industry or industries New South Wales v. Australian Public Servants Association, (1924) 20 C.A.B. 116.

As to the full exercise of an express power (such as the power conferred on the Parliament by this placitum) not being controlled by any implied prohibitions, even though a State voluntarily brings itself within its ambit, see Pirrie v. McFarlane, (1925) 36 C.I.B. 170, at p. 191, 31 A.I.B. 365, at p. 373.

Held by the Commonwealth Court of Conciliation and Arbitration that it has jurisdiction to make an award applicable to printing and/or bookbinding done in the Government Printing Office. Department of Lands and Registrar-General's Department. New South Wales, and also in the Sydney Technical College: Printing Industry Employ

Held by the High Court that when an award has been made by the Commonwealth Court of Conciliation and Arbitration constituted under this placitum, the Parliament of a State cannot after the terms of the award or confer or impose on the parties to it rights or obligations which are inconsistent with such terms Clyde Engineering Co. Ltd. v. Couvurn. Metters Ltd. and Lever Bros. Ltd. v. Pickard, (1926) 37 Cl. R. 463, 32 A. L. R. 214

Held by the High Court that s. 20 of the Commonwealth Conciliation and Arbitration in certain cases to direct a State industrial authority that is dealing or about to deal with an industrial dispute not to do so—is within the power conterred by this placitum and placitum (xxxix) upon the Parliament of the Commonwealth. R. v. Commonwealth Court of Conculation and Arbitration: Exparte The Engineers. &c. (State) Conculation Committee, (1926) 33 C.L.R. 563; 33 A.L. R. 90

Held by the Commonwealth Court of Conculation and Arbitration that, in an interstate dispute in which the question of the salaries to be paid to officers of the Victorian Railways Department (whose salaries are in excess of £500 per annum) is in issue, the Court has jurisdiction to make an award fixing the salaries to be paid to those officers, notwithstanding that under State law the decision as to the salaries payable to officers whose salaries are in excess of £500 per annum rests with the Government and not with the Railway Commissioners. Australian Railways Union v. Victorian Railways Commissioners, (1927) 25 C. A. R. 1054 the Railway Commissioners 25 C A R 1054

25 C A R 1054

The State of South Australia, pursuant to statutory authority, employed as health inspectors certain members of an organization. An industrial dispute extending beyond the limits of one State having arisen between the claimant organization and certain employers, including the State of South Australia, it was held by the Commonwealth Court of Conciliation and Arbitration that in respect of the employment of members of the claimant association, the State was, under this placitum, subject to the jurisdiction of the Court Health Inspectors' Association of Australia v Major, Aldermen, Councillors and Citizens of the City of Greater Brisbane, and others, (1928) 26 C A.R 453

Held by the High Court that awards made by the Commonwealth Court of Conciliation and Arbitration in respect of disputes to which the Railway Commissioners of the various States had been rade parties, were validly made and were binding on the respective Commissioners Australian Railways Union v Victorian Railways Commissioners, (1930) 44 C L R 319, 37 A.L.R. 37.

(b) Matters incidental to or arising under placitum generally.

(i) Power to provide tribunal

(i) Power to provide tribunal

Held by the High Court that the Commonwealth Conciliation and Arbitration Act is not ultra vires
the Constitution on the ground that the tribunal for the determination of such disputes is not chosen
by the disputants. Held also that under the Constitution the only arbitral power which can be conferred
upon that Court is a power of puduial determination between the parties to a dispute R. v. Commonwealth Court of Conciliation and Arbitration, Ex parts Whybrow & Co., (1910) 11 C L R 1; 16 A L R. 373.

As to the power of the Parliament under this placitum to create a tribunal having judicial power,
which is not a court withins 73 of the Constitution; and the Presiding Judge of which is not appointed
for life, see Waterside Workers' Federation of Australasia v. J. W. Alexander Ltd., (1918) 25 C.L R. 434, 24
A L R 331 (NOTE—Inis decision was given prior to the reconstitution of the Commonwealth Court of
Conciliation and Arbitration by the appointment of Judges holding life tenure).

Per Higgins, J. (President of the Comminance of Conciliation and Arbitration). The
Government has no power to establish a tribunal by executive action. Waterside Workers' Federation v.
Commonwealth Steamship Owners' Association, (1920) 14 C A R. 276

(11) Power to make arbitration compulsory.

Held by the High Court that the Commonwealth Conciliation and Arbitration Act is not ultra vires the Constitution on the ground that under the Act the reference of industrial disputes to the Court is compulsory. R v. Commonwealth Court of Conciliation and Arbitration. Ex parts Whybrow & Co., (1910) 11 C.L.R. 1; 16 A L R. 373

(iii) Incorporation and cancellation of associations.

Held by the High Court that provisions for the registration of associations as organizations (even though of employees in an industry in one State only), and for the incorporation of organizations when registered, are valid as being incidental to the power conferred upon the Commonwealth Parliament by this placitum Jumbinna Coal Mine No Liability v. Victorian Coal Miners' Association, (1908) 6 C.L.R. 309, 14 A.L.R. 701. See also Huddart Parker & Co. Pty. Ltd. v. Moorehead (1909) 8 C.L.R. 330, at p. 366, 15 A.L.R. 241, at p. 253.

Held by the High Court that s 60 of the Commonwealth Conciliation and Arbitration Act 1904-1921—providing in certain events for the cancellation of the registration of an organization—is a valid exercise of the legislative power of the Commonwealth under this placitum and placitum (xxxix). Australian Commonwealth Shapping Board v. Federated Seamen's Union of Australgaia, (1925) 36 C.L.R. 442; 31 A.L.R. 352.

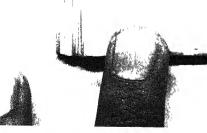
(iv) Whether awards must operate uniformly in different States.

Question of power of Court to fix different rates of wages for different States, discussed by High Court. Federated Saw Mull, Tumber Yard and General Woodworkers' Employees' Association of Australasia v. James Moore & Son Pty Ltd., (1909) 8 C.L.R. 465; 15 A.L.R. 374. See also Australian Transvay Employees Association v. Commissioner for Road Transport and Transvays (N.S.W.), (1935) 53 C.L.R. 90, at p. 107, 41 A.L.R. 188, at p. 194, Australian Transvay and Motor Omnibus Employees Association v. Commissioner for Road Transport and Transvays (N.S.W.), (1935) 54 C.L.R. 470, at p. 488, 42 A.L.R. 108, at p. 108.

As to whether an award may draw a distinction between State employees and other employees, see

(v) The making of awards inconsistent with State laws, awards, &c.

Question as to the power of the Commonwealth Court of Conciliation and Arbitration to make an award inconsistent with an award of a State Arbitration Court, an industrial agreement made and registered pursuant to a State statute, an industrial agreement enforceable under State law, or a determination of a Wages Board empowered by a State law to fix a minimum rate of wages, discussed by High Court. Federated Saw Mill, Timber Yand and General Woodworkers' Employees' Association of Australiasu v James Moore & Son Ply. I'd., (1909) 8 C.L.R. 465; 15 A.L.R. 374. (As to this case see Waterside Workers' Federation of Australia v. Gulchrist, Watt and Sanderson Ltd., (1924) 34 C.L.R. 482 at p. 548; 30 A.L.R. 402, at p. 430).



(b) Matters incidental to or arising under placitum generally—continued

(v) The making of awards inconsistent with State laws, awards, &c -continued.

(v) The making of awards inconsistent with State laws, awards, &c —continued. Held by the High Court (Griffith, CJ, Barton and O'Connor, JJ; Isaacs and Higgins, JJ, dissenting) that the Commonwealth Court of Conciliation and Arbitration has no jurisdiction under this placitum to make an award inconsistent with a State law, and that the determination of a Wages Board empowered by a State statute to fix a minimum rate of wages may be such a law, the question whether it is such a law depending upon the terms of the statute Australian Boot Trade Employees Federation of Whybrow & Co. (18.0) 10 C LR. 266, 16 A L R. 185. (as to this case see Waterside orders" Federation of Australia v. Gulchrut, Watt and Sanderson Lid., (1924) 34 C L R. 482, at p. 548, 30 A L R. 402, at p. 430)

Held by the High Court that an award of the Commonwealth Court of Conciliation and Arbitration is not inconsistent with a State law if compliance with the award is consistent with obedience to the State law. If compliance with the award is consistent with obedience to the State law. Australian Boot Trade Employees' Federation v. Whybrov. & Co., (1910) 10 C. L. R. 266, 16 A. L. R. 185 (But see Clyde Engineering Co. Ltd. v. Comburn. Metters Ltd. and Lever Bros. Ltd. v. Pickard, infra, in this note)

Held by the Commonwealth Court of Cancillation and Arbitration that it will not refron from interfering to settle a two-State dispute merely on the ground that a Wages Board determination is in operation in one or more of the States concerned Frederited Engine-drivers' and Firemen's Association of Australasia w Broken Hill Pty Co Ltd., (1913) 7 CAR 132

Per Powers. DP of the Commonwealth Court of Conciliation and Arbitration The fixing of Wages Boald rates for a State is not the settlement of an interstate dispute or any pair of an interstate dispute Manufacturing Grocers Employees' Federation v R Hurper & Co., (1916) 10 CAR 151, at p 153

Held by the Commonwealth Court of Conciliation and Arbitration that unless parties to an industrial dispute agree to accept the finding of a Wages Board as a settlement of part of an interstate dispute, the Court will not recognize a Wages Board decision as a settlement of any part of an interstate dispute Federated Carters' and Drivers' Industrial Union of Australia v L Arthur, (1917) 11 CAR 826

Held by the High Court that the Commonwealth Court of Conciliation and Arbitration may by an award fix a minimum rate of wages lower than the minimum rate fixed by a Wages Board of a State pursuant to a statute of that State for the same class of work Federated Engine Drivers' and Firener's Association of Australasia v Adelaude Chemical and Fertilizer Co Ltd., (1920) 28 CLR 1, 26 ALB

Held by the Commonwealth Court of Conciliation and Albitration that in cases where the Court has fixed minimum rates, a State law or a common rule gianting higher rates does not clash with the rights of any party to the award Federated Engine Drivers' and Firemen's Association of Australasia v Albany Bell Ltd., (1922) 16 CAR 756

Held by the High Court that, when an award has been made by the Commonwealth Court of Conchlation and Arbitration constituted under this placitum, the Parhament of a State cannot after the terms of the award or concer or impose on the parties to it rights or obligations which are inconsistent with such terms Clyde Enquieering Co. Ltd. v. Cowburn. Meiters Ltd. and Lever Bros. Ltd. v. Pickard, (1926) 37 C. L. R. 486, 32 A. L. R. 214

Held by the High Court (Knox, CI, Isaacs, Gavan Duffy, Rich and Starke, JJ, Higgins and Powers, JJ, dissenting) that the possibility of obeying a law of the Commonwealth and a law of the State without disobeying either is not a test of the inconsistency of the two laws Ibid

Per Isaacs, J -A State law is inconsistent, and is therefore invalid, so far as its effect, if enforced,

Per Isaacs, J.—A. State law is inconsistent, and is therefore invalid, so far as its effect, if enforced, would be to destroy on vary the adjustment of industrial relations established by the award with respect to the matters formerly in dispute Ibid

Held by the High Court that a determination of a State Wages Board, which fixed in an industry a higher minimum wage than that fixed by an award made by the Commonwealth Court of Conciliation and Arbitration under this placatum, in respect of that industry, is invalid under s 109 of the Constitution H V McKay Ltd v Hunt, (1926) 38 C L E, 308, 32 A L R 393.

Question as to the extent of the power of the Commonwealth Court of Concillation and Arbitration to make, under s. 30A of the Commonwealth Conciliation and Arbitration Act 1904-1928, a declaration as to the invalidity of a State award, discussed by that Court F H Corke v. Australian Tumber Worlers Union, (1929) 28 C A R 365

Question of inconsistency as between a Commonwealth award prescribing a complete industrial code for the government of the disputants and a State award, discussed by High Court. Stock Motor Ploughs Ltd. v. Forsyth, (1922) 48 C L.R 128, at p. 148, 38 A L R 408, at p. 415.

(v1) The making of retrospective awards.

(VI) The making of retrospective awards.

Held by the High Court (Knox, CJ, Higgins, Gavan Duffy, Rich and Starke, JJ., Powers, J. dissenting) that where no prior award has been inade by the Commonwealth Court of Conciliation and Arbitration on the particular subject-matter, the Court may by an award make provisions in respect of matters which are past at the date of the award if those matters were in issue in the original dispute, and, therefore, may order payment in respect of work done after the point of time when as a fact the industrial dispute began and before the award is made *Federated Enginedrivers' and Firemen's Association of Australasia v Adelaide Chemical and Fertilizer Co Ltd., (1920) 28 CLR. 1, 25 ALR 169

As to the power of the Commonwealth Court of Conciliation and Arbitration to set aside an award retrospectively, see Australian Institute of Marine and Power Engineers v. Commonwealth Steamship Owners Association, (1931) 30 C A R. 774

As to its power to vary an award retrospectively as from the date of its commencement, see Australian Tramway and Motor Ommbus Employees' Association v. Commissioner for Road Transport and Trumways (N.S. W.), (1935) 54 C.L.R. 470, 42 A.L.R. 105.

(vi1) The continuance of an old award until a new award is made.

Held by the High Court (Knox, CJ, Higgins, Gavan Duffy and Starke, JJ; Isaacs, Rich and Powers, JJ., dissenting) that the provision in s. 28 (2) of the Commonwealth Conciliation and Arbitration Act 1904-1918, that, in the absence of order to the contrary, the old order shall continue in force from the date of the expiration of the period therein specified until the new award is made is a valid exercise of the power conferred by the placitum. Waterside Workers Federation of Australia v. Commonwealth Steamship Owners' Association, (1920) 28 C L.R. 209; 26 A.L.R. 233.

(b) Matters incidental to or arising under placitum generally—continued.

(VIII) Power to declare a common rule.

(viii) Power to declare a common rule.

Held by the High Court that the provisions of the Commonwealth Conciliation and Arbitration Act—which purport to authorize the Commonwealth Court of Conciliation and Arbitration to declare a common rule in any particular industry—and direct that the common rule so declared shall be binding upon the persons-engaged in that industry—are ultra vives this placitum and invalid Australian Boot Trade Employees' Federation v Whybrov & Co., (1910) 11 C.L.R. 311, 16 A.L.R. 513. Note.—The High Court had previously held that the provisions empowering the Commonwealth Court of Conciliation and Arbitration. Let parte Whybrow & Co. (1910) 11 C.L.R. 1., 18 A.L.R. 373.

Question whether in view of later decisions of the High Court the common rule provisions may not be held to be valid, discussed by Commonwealth Court of Conciliation and Arbitration. Accident Underwriers' Association v Australian Insurance Staffs Federation, (1928) 26 C.R. 368, at p. 972.

Held by the Commonwealth Court of Conciliation and Arbitration that it has jurisdiction to declare an award to be a common rule in a particular industry in the Northern Territory Pastoral Lesses Association, (1928) 26 C.R. 868, at p. 972.

Discussion by High Court of question whether decision given by that Court in Metal Trades Employers Association v Amalgamated Engineering Union—that the Commonwealth Court of Conciliation and Arbitration has jurisdiction to make an award as to the terms of employment of non-unionists by employers between whom and a union a dispute relating to that subject in fact exists, although the employers do not employ any unionists—affects the previous decision of the Righ Court as to the unconstitutionality of the common rule provisions of the Commonwealth Court of disputes by agreement.

(ix) The settlement of disputes by agreement.

As to whether the Parliament has power, as ancillary to the prevention and settlement of industrial disputes by conclination and arbitration, to make provisions authorizing the parties to come together out of Court and agree to terms of settlement, and declaring that an agreement so made shall be binding upon them, see J C Williamson Ltd v Musicians' Union of Australia, (1912) 15 C.L.R. 636, at pp. 643, 648,658, 19 A L.R. 84, at pp. 86,88,92
As to the kinds of industrial agreements in respect of which Parliament may legislate in pursuance of this placitum, see Federated Engine Drivers and Firemen's Association of Australiana v Broken Hill Proprietary Co Ltd. (No 3), (1913) 16 C.L.R. 715; 19 A.L.R. 481

(x) Power to prohibit lockouts or strikes

(x) Power to prohibit lockouts or strikes

Held by the High Court (Barton, A C J., Isaacs, Higgins and Powers, JJ.; Gavan Duffy and Rich, JJ. dissenting) that the prohibition in s 6 (1) of the Commonwealth Concultation and Arbitration Act 1904—1915 against doing anything in the nature of a "lockout" or "strike" as defined in s 4 of that Act is within the legislative powers of the Parliament of the Commonwealth as conferred by this placitum and placitum (xxxix) Stemp v Australian Glass Manufacturers Co. Ltd., (1917) 23 C.L.R. 226; 23 A.L.R. 273. Validity or s 64 of the Commonwealth Conculation and Arbitration Act 1904—1921—which prohibits the doing of anything in the nature of a lockout or strike—discussed, together with question whether section could validly prohibit men engaged in a single-State dispute from pursuing the remedy of strike. Metropolitan Gas Company v Federated Gas Employees' Industrial Union, (1925) 35 C.L.R. 449; 31 A.L.R. 117.

(x1) Power to bind successors in a business

(XI) Fower to onus successors in a business

Held by the High Court (Isaacs, Higgins and Starke, JJ.; Knox, C.J. and Duffy, J., dissenting) that

s. 24 (1) of the Commonwealth Conciliation and Arbitration Act 1904—1920—as amended by s. 3 of the

Commonwealth Conciliation and Arbitration Act 1921 so as to bind not only the parties to an industriat
agreement made and filed under s. 24, but also any successor, assignee or transmittee of the business
of a party bound by the agreement, inclinding any corporation which has acquired or taken over the business
of such party—is within the power conferred on the Parliament by this placitum and placitum (xxxx).

George Hudson Lid v. Australian Timber Workers' Umon, (1923) 32 C.L.R. 413, 30 A.L.R. 13.

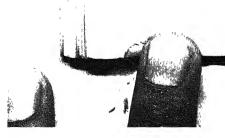
(xii) Power to prohibit incitements to commit breaches of act.

Held by the High Court that the provision as to printing or publishing inextenents to commit breaches of the Act, contained in s. 86p of the Commonwealth Conciliation and Arbitration Act 1904-1928, is within the constitutional powers of the Commonwealth, which extend to penalising all inextenents to commit contraventions of any law of the Commonwealth validy enacted. Graziers' Association of New South Wales v Labor Daily Ltd., (1930) 44 C.L.R. 1

(xiii) Limits on powers of Court as to wages, &c., which may be awarded

(xiii) Limits on powers of Court as to wages, &c., which may be awarded

As to the limitations on the power of the Commonwealth Court of Conciliation and Arbitration in the settlement of industrial disputes, see R. v. Commonwealth Court of Conciliation and Arbitration: Expanse Broken Hill Pty Co. Ltd., (1903) 8 C L R. 419, at pp. 430, 438, 450; 15 A.L R. 416, at pp. 419, 423, 427. See also Amalgamated Engineering Union v. Alderdee Pty. Ltd.: In re Metropolatan Gas Co., (1928) 41 C.L R. 402, at p. 421, 34 A.L.R. 401, at p. 407, at p. 407, at p. 421, 34 A.L.R. 401, at p. 407, at



(b) Matters incidental to or arising under placitum generally—continued (xiii) Limits on powers of Court as to wages, &c., which may be awarded-

(xiii) Limits on powers of Court as to wages, dc., which may be awarded—continued.

In 1927 an employers' organization served a log of demands upon the employees' organization, and prefaced the log by a letter requiring that all members of the employees' organization then or thereafter to be employed by the members of the employers' organization should be read at the rates set out in the log, "or such lower rates as may from time to time to the Court seem just" For one class of work the employers' log specified the rate as 35s per hundred. The employees' organization served a log on the employers' organization and for the same class of work required a rate of 60s per hundred to be paid. The Commonwealth Court of Conciliation and Arbitration fixed 41s per hundred, for this class of work. Subsequently that Court reduced the rate to 32s 6d per hundred, a reduction therein of 20 per cent. Held by the High Court (Rich, Starke and Dixon, JJ., Evatt and McTiernan, JJ., dissenting) that the reduction to an amount below the figure stipulated in the log was not beyond the powers of the Commonwealth Court of Conciliation and Arbitration, as the words in the letter covering the employers' log "or such lower rates as may from time to time to the Court seem just". Prevented the reduced rate being outside the ambit of the dispute between the parties. Australian Workers' Union v Grazzers' Association of New South Wales, (1932) 47 C.L.R. 22, 38 A.L.R. 213.

In a certain case, after logs had been served respectively by employers and employees; the Commonwealth Court of Conciliation and Arbitration made an award reducing the number of hours per week from 48 to 44, and fixed minimum wages slightly less than, equal to, or slightly more than, the minimum rates of wages proposed by the employers' logs, but in every case considerably less than the minimum rates of wages proposed by the employers' logs, but in every case considerably the full Court of the Commonwealth Court of Conciliation and Arbitration ordered that the award should

(xiv) Scope of jurisdiction of Court

(xiv) Scope of jurnsdiction of Court

Held by the Commonwealth Court of Conciliation and Arbitration that no limitation is placed upon the subject-matter of the dispute which may be included within the jurisdiction of the Court. The business in which the dispute arises may be one in reference to which the Commonwealth legislature has no power whatever. But whatever the business may be in which the aispute arises, whenever the dispute extends beyond the limits of one State the jurisdiction of the Court attaches. Merchant Service Guild of Australasia v. Commonwealth Steamship Owners. Association, (1906) 1 C.A.R. 1

Held by the Commonwealth Court of Conciliation and Arbitration that the Court has no power under this placitum to fix housing conditions in the different States generally, or to raise the standard of living in Australia, from time to time, because of the personal humane feelings of the Judge for the time being Federated Gas Employees' Industrial Union v. Metropolitan Gus. Co., (1921) 15 C.A.R. 838.

Held by the Commonwealth Court of Conciliation and Arbitration that it has jurisdiction to make an interim award pending the final settlement of a dispute. Australian Railways Union v. Victorian Railway Commissioners, (1925) 22 C.A.R. 886.

(c) Meaning of words " Concultation and Arbitration '

(c) As to the application of the words "Conciliation and Arbitration", see Merchant Service Guids of Australasia v. Newcastle and Hunter River Steamship Co Ltd, (No. 1), (1913) 16 C L R 591; 19 A L R

22.

Held by the High Court (Rich, Starke and Dixon, JJ.), (1) that a law which established a body of persons to settle a dispute by issuing a decree arrived at by discussion amongst themselves without any hearing or determination between the disputants, as the Commonwealth Conchation and Arbitration Act 1904-1930, by s. 34, sub-sections (8) to (12), purported to do, was not a law with respect to conciliation and arbitration for the prevention and settlement of industrial disputes, and was not authorized by this placitum, and that therefore such sub-sections were invalid; and (2) that, as all material provisions of s. 34, were invalid, s. 33, which was inseparable from such provisions, was also invalid Australian Railways Union v. Victorian Railways Commissioners, (1930) 44 C.I.R. 319, 37 A.I.B. 37.

Held by Issacs, C.J., (dissenting) that the provisions of the Commonwealth Conciliation and Arbitration Act 1904-1930 for the appointment of Conciliation Committees were valid because, when properly construed, they constituted the Committees tribunals which were bound to afford the disputants in industrial disputes fair opportunity by themselves or their representatives in the sense of agents to be present and present their respective cases before the Committees Ibid

Section 34 of the Commonwealth Conciliation and Arbitration Act 1904-1930 held invalid by Gavan Duffy, J. Ibid.

Duffy, J. Ibid.

(d) Meaning of words "Industrial Disputes".

(d) Meaning of industrial disputes in this placitum discussed by High Court Jumbunia Coal Mine No Liability v Victorian Coal Miners' Association, (1908) 6 C L R 309, 14 A L R. 701.

Held by the High Court that assuming the existence of all other circumstances which constitute an industrial dispute extending beyond the limits of one State, including a demand by combined and organized employees on their employers, want of preconcert on the part of the employers in refusing the demand does not under this placitum deprive the Commonwealth Court of Conciliation and Arbitration of jurisdiction to make an award on a plaint brought before the Court by the organization of employees Federated Saw Mill, Timber Yand, and General Woodworkers Employees Association of Australasia v. James Moore & Son Pty. Ltd., (1909) 8 C.L R. 465, 15 A.L R. 374.

Held by the High Court that a demand and refusal is not of itself necessarily sufficient to establish the existence of a dispute. Question whether a dispute raised in a formal and complete way is to be taken prima facts as genuine and real, discussed by High Court. R. v. Commonwealth Court of Conciliation and Arbitration; Ex parts Whybrow & Co. (1910) 11 C.L.R. 1; 16 A L R 373

Held by the High Court that the term "industrial disputes" in this paragraph connotes a real and substantial difference having some element of persistency, and likely, if not adjusted, to endanger the industrial peace of the community. Held also that such a dispute is not created by a mere formal demand and a formal refusal. R. v. Commonwealth Court of Conciliation and Arbitration and Arbitration and the Merchant Service Guild of Australasia, (1912) 15 C.L.B. 586; 19 A.L.R. 45.

As to the meaning of the term "industrial disputes" in this placitum, see Merchant Service Guild of Australasia v. Newcastle and Hunter River Steamshy Co. Ltd. (No. 1), (1913) 16 C.L.R. 591; 19 A.L.R. 422.

(d) Meaning of words "Industrial Disputes"-continued

Held by the High Court that in the case of a demand made by or on behalf of employees on their em-Held by the High Court that in the case of a demand made by or on behalf of employees on their employees and refused or not conceeded, pie-evisting dissatisfaction communicated to or known by the employers before the demand is not always a necessary element to constitute an industrial dispute or to make the demand real and genuine Merchant Service Guild of Australasia v. Newcustle and Hunter River Steamship Co Ltl (No 2), (1913) 16 C. L. R. 705; 19 A L. R. 478

Held by the High Court (Isaacs, Higgins, Powers and Rich, JJ.; Barton, A.C.J., dissenting) that there may be an industrial dispute within the meaning of this placitum upon the question whether employees may wear and display when on duty a badge indicating that they are members of a trade association Australian Trammay Employees Association v. Prahran and Malvern Tramways Trust, (1913) 17 C.L. R. 680, 19 A L. R. 573

As to the facts recessary to establish the existence of an industrial dispute, see Federated Felt Hatting Employees Union of Australasia v Denton Hat Mulls Ltd., (1914) 18 C.L. R. 88; 20 A L. R. 141.

Held by the High Court that the word "dispute" means a real dispute in fact, and is not limited by any artificial criteria. R. v. Commonwealth Court of Concultation and Arthration and Merchant Service Guild of Australasia, Exparte William Holyman & Sons Ltd., (1914) 18 C.L. R. 273, 20 A L. R. 428.

Service Guild of Australasia, Ex parte William Holyman & Sons Ltd., (1914) 18 Ulb 273, 20 alb 2.

429.

Held by the High Court (Isaacs, Gavan Duffy, Powers and Rich, JJ), that the existence or non-existence of such a dispute within the meaning of this placetum is to be ascertained by the Court by the ord nary rules of evidence applicable to questions of fact. Ibid.

On the hearing in the Commonwealth Court of Conciliation and Arbitration of a plaint by an organization of employees against a large number of employers, after the evidence was closed a statement signed by several of the employees stating that they had no dispute with their employers and were satisfied with their conditions of labour, was tendered in evidence but was rejected as the claimants would not consent to its admission. An award was subsequently made which purported to bind the employers of these particular employees. Held by the High Court (Griffith, C.J., and Barton, Gavan Duffy, Powers and Rich, JJ., Isaacs, J., dissenting), that prohibit on should go in respect of the award so far as is related to these employees. Hid (But see Burnood Cinema Lid v. Australian Theatrical and Amisement Employees Association, infra.)

Held by the High Court (Higgins, J.) that an industrial dispute within the meaning of the Constitution may exist if it is proved that a dispute exists between an organization of employees and a number of employees who are named as respondents, even though it is not proved that the dispute exists between employees who are respondents. Australian Workers Union v. Pastoralists' Federal Council, (1917) 23 C.E.R. 22, 23 A. I. R. 232

A LR 282

Held by the Commonwealth Court of Conciliation and Arbitration that Parliament may provide for the registration under the Commonwealth Conciliation and Arbitration Act of a body which does not consist of employees in an industry within the meaning of this placitum. Analgamated Society of Carpenters and Joiners v. Commonwealth Public Service Artivans' Association, (1918) 12 C.A.R. 107.

Held by the High Court (Higgins, J.) that as between an organization of employees and an employer who employs persons doing the same kind of work as is done by members of the organization, although no members of the organization are employed by that employer, an "industrial dispute" may exist, or, if members of the organization will probably apply to the employer for employment, may be probable Australian Timber Workers' Union v. John Sharp & Sons Ltd., (1919) 26 C.L.R. 302.

Held by the High Court (Isaacs, Higgins, Powers and Rich, JJ.; Barton and Gavan Duffy, JJ, dissenting) that in order to constitute an industrial dispute within the meaning of this placitum it is not necessary that the undertaking in which the parties to the dispute are gaged should be an industry, a trade, or a business, carried on for profit. Federated Municipal and Shire Council Employees' Union of Australian v. Melbourne Corporation, (1919) 26 C.L.R. 508, 25 A.L.R. 309; Merchain Service Gauld of Australiana v. Commonwealth Steamship Owners' Association (No. 2), (1920) 28 C.L.R. 436, 27 A.L.R. 161.

Meaning of the expression "industrial disputes" in this placitum discussed by High Court, also question

A L.R. 161.

Meaning of the expression "industrial disputes" in this placitum discussed by High Court, also question whether employees hay be parties to an industrial dispute even though they are not manual workers. Federated Municipal and Shire Council Employees' Union of Australia v Melbourne Corporation, (1919) 26 C.I.R. 508, 25 A.I.R. 309

Held by the High Court (Barton, Higgins, Gavan Duffy and Powers, JJ) that employees who were clerks, although not manual labourers, might be parties to an industrial dispute within the meaning of this placitum. Federated Gas Employees' Industrial Union v Metropolitan Gas Co. Ltd. (1919) 27 C.I.R. 72; 25 A.I.R. 225.

Classes of disputes in the clothing trade which may be regarded as industrial disputes within the meaning of this placitum, considered by the High Court Federated Clothing Trades of the Commonwealth of Australia v. Archer, (1919) 27 C.I.R. 207; 25 A.I.R. 253

Held by the Commonwealth Court of Conclination and Arbitration that a dispute between officers in the administrative branches of State Public Services and their employeers is not an "industrial dispute" within the meaning of this placitum, such officers not being engaged in or in connexion with industry Commonwealth Public Service Commissioner v.-Government Service Women's Federation, (1920) 14 C.A.R. 794

Commonwealth Public Service Commissioner v.-Government Service Women's Federation, (1920) 14 C.A.R. 194

Per Isaacs, Higgins, and Rich, JJ.: A dispute between journalists and their employers is an industrial dispute within the meaning of this placitum. Propretors of the Daily News Ltd. v. Australian Journalists Association, (1920) 27 C.L.R. 532, at pp 540, 546, 547.

Held by the High Court (Isaacs, Higgins, Powers, Rich and Starke, JJ; Knox, C.J. and Gavan Duffy, J. dissenting) that a dispute between employers who carry on the business of banking or the business of insurance and their employees engaged in the business, as to the wages to be paid and the conditions of employment to be observed to or with respect to such employees is an "industrial dispute" within the meaning of this placitum. Australian Insurance Stoffs' Federation v. Aecident Undervorters' Association; Bank Officials' Association v. Bank of Australiasia, (1923) 33 C.L.R. 517; 30 A.L.R. 122

Held by the Commonwealth Court of Conciliation and Arbitiation two States unite in making a common industry for rates of pay and substantially similar conditions of labour applicable to the industry in such two or more States. Bank Officials' Association v. Bank of Australiasis, (1924) 19 C.A.R. 272.

Held by the Commonwealth Court of Conciliation and Arbitration that in settling an industrial dispute it has jurisdiction to make an award against an employer (a) who employs a member of the union, (b) who is an employer of persons employed in the industry and is one to whom members of the union are likely to apply for employment, or (c) who discriminates against members of the union in dispute. Australian Theatrical and Amusement Employers' Association v. High J. Ward Theatres Pty Ltd., (1924) 20 C.A.R. 16 Held by the Commonwealth Court of Conciliation and Arbitration that where a claim has been made and subsequently withdrawn the Court has no jurisdiction to make an award in respect of the minted dealt with in the claim. Federated Clothing and Allied Trades U

(d) Meaning of words " Industrial Disputes "-continued

Held by the High Court (Isaacs, Powers, Rich and Starke, J.I., Knox, C.I. and Gavan Duffy, J., dissenting) that where a demand as to wages and conditions of labour is made on behalf of its members by an organization, registered under the Commonwealth Conclusion and Arbitration Act 1904 1921, of employers in a particular industry upon a number of employers engaged in that industry, the fact that certain of those employers do not employ any members of the organization, or that all the employees of certain of the employers are satisfied with their wages and conditions of labour, does not prevent the dispute constituted by the non-compliance with the demand from being an "industrial dispute", within the meaning of this placitim, to which those employers reparties in respect of whom a binding ward may be made by the Commonwealth Court of Conciliation and Arbitration Burucod Camena Life V Australian Theutrical and Amissement Employees' Association, (1925) 35 C. L. R. 528, 31 A. L.R. 282 (case considered in Metal Trades Employers' Association v Amalgamated Engineering Union, (1935) 54 C. L.R. 387, 42 A. L.R. 74

Award varied by Commonwealth Court of Conciliation and Arbitration so as to bind an employer not employing an appreciable number of members of the inion, the members who were employed by the employer not having expressed any dissatisfaction with the employment inflicent to generate a dispute Australian Builders' Labourers' Federation v N.P. Anderson, (1925) 21 C. A. R. 605

Discussion by Commonwealth Court of Conciliation and Arbitration of question of its jurisaliction to make an award for all classes of work done in an industry, and to make an award on all the claims in a plaint whether all the classes of work are or are not at the time the award is made done by all the respondents in a State, but a dispute service with the union for all its present and future members as to the rates to be paid by respondents engaged in the industry in more than one State Australian Federated Union of Locomotive Engineemen v

must be an industry within the meaning of the Constitution Quaere as to whether an industry includes a group of industries. See Referented Laquor and Allied Trades Employees Union of Australiasu v W Ashton, (1926) 24 C A R 536

Per Lukin, J (Commonwealth Court of Conciliation and Arbitration) Once an industrial dispute extends beyond the territory of any one State, all the differences and controversial issues that have arise or may arise in the industrial dispute come within the jurisdiction of the Court for hearing and determination. Once a dispute extends beyond the limits of any one State, the jurisdiction of the Court extends to all parts of Australia wherever ratics to that dispute engage in the industry. H V McKuy Ply Lid v Federated Moulders (Metal) Union, (1927) 25 C A R 1128, at pp 1137-8

Per Lukin, J (Commonwealth Court of Conciliation and Arbitration). The mere fact that a union has served upon employers in different States a log to the claims in which the employers have not consented, is not of itself sufficient evidence to establish the existence of an interstate dispute. Federated Liquor and Allied Trades Employees Union of Australia v Australian Club, (1927) 25 C A R 1

Discussion by the Commonwealth Court of Conciliation and Arbitration of question as to the power of that Court to make an award binding all employees, present or future, of a claimant organization of employers, whether those employees are members of an organization or not, and as to whether the common rule provisions are not valid. Accident Underwriters Association v Australian Insurance Staffs Federation, (1928) 26 C A R 968

rule provisions are not valid. Accident Underwriters' Association v Australian Insurance Staffs Federation, (1928) 26 CAR 968
As to whether employees demanding industrial conditions from employers for themselves can, within the term "industrial disputes" as used in this placitum include a condition that if non-inionists are employed their industrial conditions shall be the same, see Amalgamated Ennineering Union v Alderdice Pty Ltd., In re Metropolitan Gas Co., (1928) 41 CLR. 402, at p. 417; 34 Al. R. 401, at pp. 405-6. But see Metal Trades Employers Association v Amalgamated Engineering Union, (1935) 54 CLR 377, 42 ALR 74 (n)rq. p. 42).

Beld by the High Court (Knox, CJ., Gavan Duffy, Rich and Starke, JJ., Isaacs, J., dissenting) that a dispute between the States and the school teachers employed by them is not an "industrial dispute" within the meaning of this placitum, the occupation of the teachers not being an "industrial" occupation. Federated State School Teachers' Association of Australia v. State of Victoria, (1920) 41 CLR 569: 35 ALR 129

569; 35 ALR 129

Question whether an agricultural society holding exhibitions is engaged in industry and can therefore be party to an industrial dispute, discussed by Commonwealth Court of Conciliation and Arbitration. Australian Theatrical and Amisement Employees' Association v. Victoria Racing Club, (1929) 27 C A R 940.

Held by the Commonwealth Court of Conciliation and Arbitration that it is within the power of the Court to bind a respondent employer and all other respondent employers by imposing on them duties and obligations to their fellow employers and to the employees in the industry, parties to the award Australian Textile Workers Union v Gedye, (1929) 27 C A R. 1135

As to whether an award already made by the Commonwealth Court of Concident and Arbitration may be reopened in order to make mombers of another Industrial Union bound by the award, see Western Australian Timber Workers Industrial Union of Workers (S.W. Land Division) v. Western Australian Sawmillers' Association, (1929) 43 C. L. R. 185, 36 A. L. R. 205

Held by the Commonwealth Court of Conciliation and Arbitration that it has not power to make an award binding employees neither members of a respondent union nor personally parties to a dispute H. V McKay Pty Ltd. v Court of Arbitration of Western Australia, (1929) 28 C A.R 333.

Held by the High Court (Knox, CJ, Gavan Duffy, Rich, Starke and Dixon, JJ, Isaacs, J dissenting) that in so far as an award of the Arbitation Court purported to bind an employer in respect of every person employed by him, whether a member of the union or not, it was ultra rires. Question whether power to make such an award could be conferred by legislation under this placitum, discussed by High Court, Amalgamited Clothing and Allied Trades Union of Australia v. D. E. Arnall & Sons, In re American Dry Cleaning Co, (1929) 43 (*L.R. 29, 35 A.L.R. 345 Case considered in Metal Trades Employers Association v. Amalgamited Engineering Union, (1935) 54 CL.R. 387, 42 A.L.R. 74

Held by the High Court (Court Court William Clean Drive, 1945) that to contilints an industrial

Held by the High Court (Gavan Duffy, Rich, Starke and Dixon, J.J.) that to constitute an industrial dispute there must be disagreement between people or groups of people who stand in some industrial relation upon some matter which affects or arises out of the relationship. Such a disagreement may cause a strike, a lock-out and disturbance and dislocation of industry, but these are the consequences of the industrial dispute and not the industrial dispute itself, which lies in the disagreement Caledonan Colleges Lid v. Australasian Coal and Shale Employees Federation (No. 1), (1930) 42 C.L.R. 527; 36 A.L.R. 61.

Held by the High Court that the Commonwealth Court of Conciliation and Arbitration has not jurisdiction over an alleged industrial dispute extending beyond the limits of any one State unless

(d) Meaning of words "Industrial Disputes" -- continued

it is real and genuine, and that the question whether it is real and genuine, upon proceedings in pro-hibition, is to be determined by the High Court on its own independent view of the evidence Caledonian Collieries Ltd. v Australasian Coal and Shale Employees' Federation (No. 2), (1930) 42 C.L.R. 558; 36 148

A.L.R. 148

Held by the High Court (Gavan Duffy, Rich, Starke and Dixon, JJ) that in order to give the Commonwealth Court of Concination and Arbitration jurisdiction, the two-state dispute must exist between the parties antecedently to the award or agreement which composes it, and the dispute mist arise out of their disagreement about the manner in which they shall regulate their own industrial relations Caledonian Colheries Ltd. v. Australasian Coal and Shale Employees' Federation (No 2), (1930) 42 CL R 558, 36 A.L.R 148

Held by the High Court (Ric), Dixon, Evatt and McTiernan, JJ.; Gavan Duffy, CJ. and Starke, J. dissenting) that when organizations of employees and of employers serve upon one another, and upon employers and employees respectively, logs of wages and conditions, and the employees' log specifies the amounts they require to be paid, and the employers' log the lower amounts they desire to be adopted, as minimum rates of pay, no dispute arises as to minimum rates lower than those specified in the employers' log Australian Insurance Staffs' Federation v Allas Assurance Co Ltd. (1931) 45 CL R 409, 37 ALR. 887.

Held by the Conciliation Commissioner that a claimant organization of employers cannot join individual

minimum rates of pay, no dispute arises as to minimum rates lower than those specimed in the employers' log Australian Insurance Staffs' Federation v Atlas Assurance Co Ltd. (1931) 45 C L R 409, 37 A LR. 387.

Held by the Conciliation Commissioner that a claimant organization of employers cannot join individual employees as parties to a dispute so that any award, if made, would be binding on all employees whether members of the respondent organization of employees or not Master Butchers Meat and Alived Trades Federation of Australia v. Australiasian Meat Industry Employees Union (1931) 30 C a R 512, at p 513

An award provided that a minor should not be engaged in certain specified occupations except under a contract of apprenticeship framed in accordance with the award. Held by the High Court that as the provision in question was within the ambit of the industrial disflute determined by the award, an employer a party to the award might be convicted of a breach of that provision even though the minor engaged by him was not a member of the organization of employees bound by the award. Longy Chubbs Australian Co. Ltd., (1935) 53 C L R. 143, 41 A L R. 207 Case considered in Metal Trades Employers Association v. Amalgamated Employers [Promo. (1935) 54 C L R. 387, 42 A L R. 74

Held by the High Count (Evatt, J) that the Commonwealth Court of Conclustion and Arbitration has jurisdiction to make an award binding present and future members of an employers' organization party to a dispute, in respect of members of an employees' organization, party to the same dispute, employed by them Amalgamated Engineering Union v Metal Trades Employers' Association, (1935) 53 C L R. 658; 41 A L R. 430.

A union of employees in an industry served on employers in that industry in various States a log of the employees by the modern of the union of the employees of the union of the union's demands Held by the High Court (Latham C J , Rich, Evatt, and McTiernan, JJ , Starke and Dixon, JJ disscriting), that, as between the union and the em

(e) Meaning of " Extending beyond the limits of any one State"

Held by the Commonwealth Court of Conciliation and Arbitration that where a business extends beyond the limits of one State and a dispute arises in that business, and the dispute is taken up by an organization representing that industry, the Court has jurisdiction to entertain it whether the disputants are resident in different States or all in one State **Australasian** Institute of Marine Engineers* V** Howard Smith Co** 1d**, (1906) 1 C A R. 44

A Federal Association of employees in the building trade had branches in Victoria and South Australia, both branches being registered under the Commonwealth Conciliation and Arbitration Act, though the main body was not so registered. A controversy arose between the Adelaide branch and their employers there, a claim being at the same time submitted by the Victorian branch and their employers to a Wages Board for determination. Held by the Commonwealth Court of Conciliation and Arbitration that the dispute was not one extending beyond the limits of a single State ** Exparte Hart** In re Stone, (1907) 1 C A R. 107.

Meaning of "extending beyond the limits of any one State" discussed by High Court. Jumbunna Coal Mine No Laability v. Victorian Coal Miners' Association, (1908) 6 C L R. 309, 14 A L R. 701.

Held by the Commonwealth Court of Conciliation and Arbitration that the mere fact that an employer's business extends beyond a State is not sufficient to constitute an interstate dispute It must be shown that the dispute extends beyond the limits of a State ** Marine Cooks. Bakers' and Butchers' Association of Australia v Commonwealth Steamship Owners' Association, (1908) 2 C A R. 55

Held by the High Court that where the employees engaged in different branches of one industry carried on in different States by a single employer take concerted action in making a common demand on their employer for certain conditions of employment, and the employer, understanding that the demand is so made on behalf of all the employees, refuses to accede to it, there arises an industrial



(e) Meaning of "Extending beyond the limits of any one State"-continued

which they had not made and would not have made except to help the employees in New South Wales by making the dispute a dispute extending beyond the limits of one State, it was held by the Commonwealth Court of Conciliation and Arbitration that the dispute was not one extending beyond the limits of a State Federated Enginedrivers' and Firemen's Association of Australia v Caledonium Coal Co Ltd. (1910) 4 C A R

Court of Concilation and Arbitration that the dispute was not one extending beyond the limits of a State Federated Enginedrivers' and Firemen's Association of Australia v Caledonian Coal Co. Ltd., (1910) 4 C. A.R.

Held by the High Court that the words "extending beyond the limits of any one State" in this placitum mean extending from one State into another State or other States of the Commonwealth. Merchant Service Guild of Australiava v. Commonwealth Steumship Courter Association, (1913) 16 C.L.R. 664; 19 A.L.R. 450

Held by Gavan Duffy and Rich, JJ, that a dispute extending beyond the limits of any one State within the meaning of this placitum may exist with regard to labour to be performed outside the territorial limits of the Commonwealth, if the disputants reside, the demands and the refusal are made, and the dissidence, dissatisfaction and unrest prevail, within the Commonwealth, and the power to prevent and settle such a dispute implies a power to prescribe terms and conditions with respect to such labour. Merchant Service Guild of Australiava v. Commonwealth Steamship Owners Association. (1913) 16 C.L.R. 664; 19 A.L.R. 450

Held by the High Court (Isaacs, Gavan Duffy, Powers and Rich, JJ., Griffith, C.J. and Barton, J., dissenting) that the building trade is an industry in respect of which there may be an industrial dispute extending beyond the limits of any one State within the meaning of this placitum. R. v. Commonwealth Court of Concellation and Arbitration that it can only make an award when there is an industrial dispute or an actual, threatened, impending, or probable industrial dispute extending beyond the limits of one State, and in respect of those matters in the plaint about which there Dressers' Employees Union of Australia v. Alderson & Co., (1914) 8 C.A.R. 145

Held by the High Court (Isaacs, Gavan Duffy, Powers and Rich, JJ.) that the phrase "industrial dispute e

A. F. 470

Held by the Commonwealth Court of Conciliation and Arbitration that it has jurisdiction to make an award for the prevention of a dispute likely to extend beyond the limits of a State Waterside Workers' Fed-ration of Australia v Commonwealth Steamship Owners' Association, (1916) 10 C A 429

Held by the High Court (Isaacs, Higgins, Gavan Duffy, Powers and Rich, JJ.; Griffith, C.J., and Barton, J., dissenting) that the whole of s. 21AA of the Commonwealth Conciliation and Arbitration Act 1904-1915—which enables an application to be made to a Justice of the High Court for a decision on the question whether an industrial dispute or any part thereof exists, or is threatened or impending or probable, as an industrial dispute extending beyond the limits of any one State, and declares that any such decision shall be final—is a valid exercise of the legislative power of the Parliament. Federated Engine-drivers' and Firemen's Association of Australiasia v Colonial Sugar Refining Co. Ltd., (1916) 22 C L R. 103; 22 A L R. 328

22 A I. R 328

Held by the Commonwealth Court of Conciliation and Arbitration that a log of wages and conditions of employment adopted in one State only, by the members of an organization cannot be considered as forming part of an interstate dispute Federated Mining Employees' Association of Australasia v Vernuderie Silver Mining Co. N.L., (1918) 10 C A R 698. Held further, that an organization may include in its plaint claims for different rates for different States or parts of States, but a common joint demand approved by members of the organization in more than one State is necessary to constitute an interstate dispute.

Ibid

As to whether the action of members of an organization of employees in two States in striking work is sympathy with employees in another organization who had struck work in one of those States, creates an industrial dispute between the organization first referred to and employers of employees members of that organization, see Metropolitan Coal Co. of Sydney Ltd. v. Australian Coal and Shale Employees' Federation, (1917) 24 C.L.R. 85; 24 A.L.R. 170.

As to whether, when an industrial dispute within the meaning of this placitum has been settled in all States but one, an award may be made settling the dispute in so far as that State is concerned, see Federated Enginedrivers' and Firemen's Association of Australiana v. Adelarde Chemical and Fertilizer Co. Ltd., (1920) 28 C.L.R. 1; 26 A.L.R. 169.

Held by the Righ Court (Knox, C.J., Isaacs, Rich and Starke, J.I.; Higgins and Gavan Duffy, J.I., dissenting) that, apart from covering clause 5 of the Commonwealth of Australia Constitution Act, the jurisdiction conferred by this placitum extends only to disputes as to the terms and conditions of industrial operations carried on within the territorial limits of the Commonwealth. Merchant Service Guild of Australasia v. Commonwealth Steamship Owners Association (No. 3), (1920) 28 C.L.R. 495; 27 A.L.R. 213.

Guild of Australasia v. Commonwealth Steamship Owners Association (No 3), (1920) 28 C.L K 495; 21 A.L.R. 213.

Held therefore, that the Commonwealth Court of Conciliation and Arbitration has no jurisdiction with regard to a dispute between parties in Australia as to the terms of contracts to be entered into there for employment beyond the territorial limits of Australia upon British ships whose ports of clearance and final ports of destination are not in Australia. Ibid.

Question whether s. 6A of the Commonwealth Conciliation and Arbitration Act 1904—1921—which prohibits the doing of anything in the nature of a lockeut or strike—could validly prohibit men engaged in a single-State dispute from pursuing the remedy of strike, discussed by High Court Metropolitan Cas Company v. Federated Gas Employees' Industrial Union, (1925) 35 C.L.R. 449, 31 A.L.R. 117

As to whether the Commonwealth Court of Conciliation and Arbitration has jurisdiction to make an award as to persons employed in one State only, see Australian Federated Union of Locomotive Enginemen. Victorian Rusing Commissioners, (1925) 22 C.A.R. 763. (Note.—The particular class of persons employed in one State only were electric train-drivers. A special case stated for the opinion of the High

(e) Meaning of " Extending beyond the limits of any one State"-continued

(e) Meaning of "Extensing beyond the timus of any one State"—continued Court as to the power of the Commonwealth Court of Conciliation and Arbitration to make an award in respect of these persons was sub-equently withdrawn because in the meantime electric trains had commenced to run in New South Wales An award was therefore made in respect of electric trainerivers See 22 C A R 888, footnote, and Australian Federated Union of Locomotive Engineemen v. Victorian Railway Commusioners, (1926) 23 C A R 222)

Held by the Commonwealth Court of Conciliation and Arbitration that it has no jurisdiction, at the instance of the union, to make an award in respect of a State in which the union has no members Manufacturing Grocers' Employees' Federation of Australia v Parsons Bros & Co. Pty. Lid., (1925) 22 C A R 855

Held by the High Court (Gavan Duffy, Rich, Starke and Dixon, JI) that to constitute an industrial dispute there must be disagreement between people or groups of people who stand in some industrial relation upon some matter which affects or arises out of the relationship; and that upon this conception of an industrial dispute, it cannot extend beyond the limits of any one State unless in each of two or more States at one time, the disagreement exists between people or groups who stand in some industrial relation. Caledonian Collerers Ltd v Australiana Coal and Shale Employees' Federation (No. 1), (1930) 42 C.L.R. 527, 38'A.L.R. 61

Held by the High Court (Gavan Duffy, Rich, Starke and Dixon, JJ) that the words "extending beyond the limits of any one State", as applied to a dispute, mean that the dispute is one "existing in two or more States", or, in other words, covering Australian territory comprised within two or more States.

Held by the Full Court of the Commonwealth Court of Conciliation and Arbitration that where, after Held by the Full Court of the Commonwealth Court of Concilation and Arbitration that where, after an award has been made in settlement of an interstate dispute, employers in all States but one cease to carry on business, the employers in that State continue to be bound by the award Marine Cooks, Bakers and Butchers Association of Australiana v. Wallarah Coal Co. Ltd., (1931) 30 CA R. 353

Held by the Concilation Commissioner that in the case where an organization of employees, having male and female members, is in dispute with employers in two States, even though the female members of the union reside in one State only, an interstate dispute exists. Federated Confectioners Association of Australia v Australian Incorrie Fty. Ltd., (1931) 30 CA. R. 790

Held by the Conciliation Commissioner that the absence of interstate competition in a particular industry is not of testif sufficient to prove that an interstate dispute cannot exist in that industry Muster Butchers Meat and Allied Trades Federation of Australia v Australiasian Meat Industry Employees Union, (1931) 30 CA. R. 512, at p. 516

As to whether, in case of an industrial dispute in an industry some branches of which exist in one State only, an award may be made by the Commonwealth Court of Conciliation and Arbitration as to those branches only, see Printing, and Allied Trades Employers Federation of Australia v Adams, (1933) 32 CA. R. 78.

(xxxvi.) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides(a):

GENERAL NOTES.—For matters in respect of which the Parliament has "otherwise provided" see General Notes to various sections of the Constitution, also the Table of Commonwealth legislation, supra, pp vii to xivii, particularly p xxx

Notes of Cases—(a) Held by the High Court that this placitum, coupled with 4s. 10 and 31, authorizes the enactment of a 181AA of the Commonwealth Electoral Act 1902-1911, which requires the signing of electoral articles in newspapers ** the time of elections. Smath v. Oldham, (1912) 15 C L R. 355; 18 A L R. 448

Held by the High Court that this placitum, coupled with as 10 and 51 (xxxix), authorizes the enactment of a 14 of the Commonwealth Electoral (War-time) Act 1917, which provides that, on the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no referendum or vote of the electors of any State or part of a State shall be taken under the law of a State R v. Bribane Lacensing Court Ex parte Daniell, (1920) 28 C L.R. 23, 26 A.L.R. 105

Held by the High Court that, by the enactment of s. 67 of the Commonwealth Public Service Act 1922, the Parliament has "otherwise provided" for the retirement of officers within the meaning of this placitum and s. 67 of the Constitution. Bradshaw v. Commonwealth, (1925) 36 C L R. 585; 31 A L R.

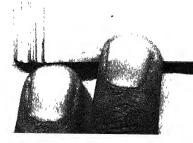
(xxxvii.) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States", but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

AL NOTES—(1) The following State laws, referring matters to the Parliament of the cealth, had been passed by the Parliaments of the States up to the date of the preparation of GENERAL Commonwealth this volume :-

New South Wales .- Commonwealth Powers (War) Act 1915 (No. 65, 1915). Victoria.—Commonwealth Powers (Air Namgation) Act 1920 (No. 3108).

Commonwealth Arrangements Act 1923, Part III (No. 3658).

Debt Conversion Agreement Act 1931 (No. 2), s. 5 (No. 4009)



Queensland — The Commonwealth Powers (Aur Nangation) Act of 1921 (12 Geo. V, No. 39)
The Commonwealth Legislative Power Act, 1931 (22 Geo. V, No. 30). South Australia.—Commonwealth Powers (Air Navigation) Act 1921 (No. 1469) Commonwealth Legislative Power Act, 1931 (No. 2061)

Western Australia.-Nil.

Tasmania.—Commonwealth Powers (Air Navigation) Act 1920 (11 Geo. V., No 42) Copies of these laws are contained in Appendix B, unfra, pp. 143-163

Short titles of laws not in force at the date of the preparation of this volume are printed in italics For further information as to the operation of the foregoing laws, and, in the case of those in force, their respective dates of commencement, see note at end of each law (Appendix B, *nfra, pp 143-163)

(xxxviii.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power(1) which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

General Notes —(1) No powers had, up to the date of the preparation of this volume, been exercised in pursuance of this placitum

(xxxix.)(a) Matters incidental(b) to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature(c), or in any department or officer of the Commonwealth(d)

Norms of Cases.—(a) Reasons for insertion of this placitum discussed by High Court Huddart Parker & Co. 12d v. Moorehead, (1909) 8 C.L.R. 330, at pp. 364-6 (see also p. 387), 15 A L.R. 241, at p. 253 (see also p. 262).

As to its being a fundamental principle of the Constitution that everything necessary to the effective screense of a power granted by the Constitution is included in the grant of the power, see Baxter v. Ah Way, (1909) 8 C.L.R. 626, at p. 637; 15 A L.R. 603, at p. 606

Held by the High Court (Isases, Higgins, Gavan Duffy, Powers and Rich, JJ) that, within the limits as to subject matter prescribed by the Constitution, the power of Parliament to make laws is plenary, and includes the power within those limits to make ex post facto laws, and that the power conferred by this placitum to make laws with respect to matters incidental to the execution of any of the powers therein mentioned is as plenary as any other of the powers to make laws R v. Kudman, (1915) 20 C.L.R. 425. 21 A L.R. 405

Placitum cited by Isaacs, Rich and Starke, JJ., in support of the view that s. 78 of the Constitution—referring to "rights to proceed against the Commonwealth or a State"—is not directed to mere procedural regulations which affect, not any right to proceed, but the method of procedure, those matters being covered by this placitum. Commonwealth v. New South Wates, (1923) 32 C.L.R. 200, at p. 215; 29 A.L.R. 289, at p. 295.

(b) Held by the High Court that this placitum empowers the enactment of s. 37 of the Judiciary Act.

(b) Held by the High Court that this piacitum empowers the enactment of s 37 of the Judiciary Act 1903, under which the High Court is authorized, in the exercise of its appellate jurisdiction, to remit a cause to the Supreme Court for the execution of the judgment of the High Court, and there is imposed upon the Supreme Court the duty of executing the judgment of the High Court in the same manner as if that judgment were the judgment of the Supreme Court. Bayne v. Blake, (1908) 5 CL R. 497; 14

upon the Supreme Court the duty of executing the Judgment of the Supreme Court. Bayne v. Rake, (1908) 5 C L R. 497; 14 A L.R. 103

Held by the High Court that provisions for the registration of associations as organizations (even associations of employees in an industry in one State only), and for the incorporation of organizations when registered, are valid as being incidental to the power conferred upon the Commonwealth Parliament by plactum (xxxv) Jumbuna Coal Mine No Liability v. Victorian Coal Miner's Association, (1908) 6 C L.R. 309; 14 A L.R. 701.

Held by the High Court that those provisions of the Commonwealth Concidention and Arbitration Act which purport to authorize the Commonwealth Court of Conciliation and Arbitration to declare a common rule in any particular industry, and direct that the common rule so declared shall be binding upon the persons engaged in that industry, are not incidental to the power contained in s 51 (xxxv), but are ultra wires and invalid. Australian Boot Trade Employees Federation v. Whybrow & Co., (1910) 11 C.L.R. 311. 16 A L.R. 513

Held by the High Court that a power to enact a law compelling persons to give svidence on matters as to which the Executive Government of the Commonwealth thinks it desirable to collect information to be made use of in exercising any existing power of the Commonwealth Parliament is "incidental" to the execution of that power within this placitum. But held also by Griffith, C.J., and Barton, J. (Isaacs and Higgins, JJ., dissenting) that such an incidental power does not extend to enacting a law compelling persons to give evidence on matters. Information as to which is relevant only to a possible amendment of the Constitution under s. 128 thereof Held therefore that the Royal Commissions Art 1902-1912 is within the power of the Commonwealth Parliament to enact, but (by Griffith, C.J., and Barton, J., Isaacs and Higgins, JJ., dissenting) that it should be construed as intended to

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apply to compelling evidence only on matters as to which the Executive Government of the Commonwealth think it desirable to collect information to be made use of he exercising any existing power of the Parliament of the Commonwealth. Colonial Sugar Refining Go Lide v. Attorney-General for the Commonwealth (1912) 15 CL R 182; 18 A L R 429. But held by the Privy Council that the Royal Commissions Act 1902-1815 is ultre wrest the Commonwealth Parliament and void so far as it purports to enable a Royal Commission to compel answers generally to questions, or to order the production of documents, or otherwise to complete by the members of the public with its requisition. Attorney-General for the Commonwealth are compliance by the members of the public with its requisition. Attorney-General for the Commonwealth v. Colonial Sugar Refining Co. Ltd. 1914 A C 237; 17 CLR 644; 20 A LR. 22

As to whether a law requiring the signing of electronal articles in newspapers at the time of elections would be incidental if not directly a law relating to electrons, see Smith v. Oldham, (1912) 15 CLR. 835, at pp 361, 362; 18 A LR 48, at p. 461.

As to whether a provision, anthorizing employers and employees to conte together out of Court and agree to terms of settlement of a dispute, is incidental to the prevention and settlement of indusurial disputes by conciliation and arbitration, see J. C. Wilhamson Ltd. v. Muercams' Union of Australia, (1912) 15 CLR. 863, at p. 431.

As to whether a provision in a land tax law which specifies that a husband or wife to whom land is transferred is to be deemed in certain events to be a joint owner, and as such lable to land tax, is incidental to such a law, see Waterhouse v. Deputy Federal Commissioner of Land Tax, South Australia, (1914) 17 CLR. 865, at pp 167, 675-8, 20 A LR. 155, at pp 187, 169-60

As to whether legislation providing for compensation to seame employed upon vessels engaged in interstate shipping is incidential to the power of the Commonwealth Parlament to legislate with respect

Sec. 51 (xxxix).]

Held by the High Court that the power of a defendant to seek for and obtain security for costs from a plaintiff whose writ, issued out of the Court of a State, is served extra-territorially under the power conferred by placitum (xxiv) of this section, is a matter incidental to the power vested in the Parliament by that placitum MrGlew v. New South Wales Malting Co. Ltd., (1918) 25 CLR. 416; 25 ALR.

ment by that plactum McClew v. New South Weles Mating Co. Lid., (1918) 25 C.L.R. 416; 25 A.L.R. 87.

Held by the High Court that s. 14 of the Commonwealth Electoral (War-time) Act 1917—which prohibits the holding under State law of a referendum or vote of the electors of any State or part of a State on the day appointed as polling day for an election of the Senate or a General Election of the House of Representatives—is a lawful exercise of the power conferred on the Parliament of the Commonwealth by this placitum, coupled with as. 10 and 51 (xxxvi). R v. Brusbane Lacensung Court. Exparte Danuell, (1920) 28 C L R 23; 28 A.L.R. 105.

As to a 52B of the Commonwealth Inscribed Stock Act 1911—1918—which makes the interest derived from Commonwealth 5 tock or Treasury Bonds exempt from income tax under any law of the Commonwealth or a State unless the interest is declared in the loan prospectus to be so liable—being incidental to the power of the Commonwealth to make laws with respect to the borrowing of money, see Commonwealth v. Queensland, (1920) 29 C L R 1, 27 A L R. 73

Held by the High Court (Khox, C.J., Gavan Duffy, Powers, Rich and Starke, JJ.; Higgins, J., dissenting) that this plactum does not extend the power to confer original jurisdiction on the High Court contained in a 76 of the Constitution. In rethe Judiciary and Navigation Acts, (1921) 29 C.L.E.

257, at pp. 265, 269, 273; 27 A L B 193, at pp 194, 196, 198.

Held by the High Court (Isaacs, Higgins and Starke, JJ.; Knox, C.J., and Duffy, J., dissenting) that this plactium conclusion and Arbitration Act 1904-1920—as amended by s. 5 of the Commonwealth Conculation and Arbitration Act 1904-1920—as amended by s. 5 of the Ommonwealth Conculation and Arbitration Act 1904-1920—as amended by s. 5 of the Ommonwealth Conculation and Arbitration Act 1904-1920—as amended by s. 5 of the Duffy Court (Isaacs, Higgins and Starke, JJ.; knox, C.J., and Duffy, J., dissenting) that is placitum. George Hudson Ltd. v. Australian Tumber Workers' Union, (1923) 32 C.L.R. 413

As to the procedure and practice to be observed in relation to Federal jurisdiction, being incidental to the powers of the Federal Judicature, and so within the power conferred upon the Parliament by this placitum, see Commonwealth v. Lumerick Steamship Co. Lid and Kudman, (1924) 35 C.L.R. 69, at pp. 105, 115; 31 A.L.R. 158, at pp. 154, 168. Special leave to appeal from the decision of the High Court in the Case of Commonwealth v. Kidman refused by the Privy Council. Kudman v. Commonwealth, (1925) 32



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Held by the High Court that \$\epsilon\$ 64 of the Judacuary Act 1903-1920, which gives the plaintiff the right to obtain discovery of documents from and to administer interrogatories \$\fo\$0, the defendant, applies where the plaintiff is a resident of one State and the defendant is a State other than that in which the plaintiff resides, and the section in question is "incidental" within the meaning of this placitum Grifin v South Austraia, (1924) 35 C.L.R. 200; 31 A.L.R. 81.

Held by the High Court that this placitum, coupled with \$\fo\$ 77 (ii), is authority for the enactment of \$\fo\$ 40 A of the Judacuary Act 1903-1920, under which causes pending in the Supreme Court of a State, and involving questions as to the limits inter \$\fo\$ of the constitutional powers of the Commonwealth and one or more States, or as to the limits inter \$\fo\$ of the constitutional powers of two or large States, are removed to the High Court Pirrie v. McFarlane, (1925) 36 C.L.R. 170, 37 A.L.R. 365.

Held by the High Court that \$\fo\$. 60 of the Commonwealth Conchation and Arbitration—Act 1964-1921—providing in certain events for the cancellation of the resistration of an organization—is a valid exercise of the legislative power of the Commonwealth under placitum (xxxv) and this placitum Austratian Commonwealth Supping Board v. Federated Seamen's Union of Australas.a. (1925) 38 C.L.R. 421; 31 A.L.R. 362

Head by the High Court that s. 20 of the Commonwealth and arbitration and atheritaes to direct a state industrial authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial authority which is governmentally recommonwealth. Rv commonwealth Concilentin and Arbitration Expaire The Engineers, &c (State) As to whether the property of the Commonwealth Concilentin authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial authority which is dealing or about to deal with an industrial depute, 1926; 33 A L R 35 Commonwealth Concilention and Arbitration Expaire The Engineers, &c (State) As to whether the power of the property of the Engineers, &c (State) and the power of the Parliament to make laws with respect to taxation, see Federal Communeauth of the Commonwealth Concilenton and Arbitration and 1911-1926. The light of the Engineers are the Commonwealth Concilenton and Arbitration and 1911-1926. The power of the Engineers are the Commonwealth Concilenton and Expaire The Engineers, &c (State) As to whether this power, courled with the power contained in placitum (vi), authorizes the stablishment of businesses for the purposes of trade and wholly unconnected with any purpose of naval defence, see Commonwealth V Austalan Commonwealth Sypping Board. (1926) 33 C L R 15. 34 L R 61, at p 64

Held by the High Court (Isaces, Powers, Rich and Starke, JJ; Knox, C J, and Gavan Duffy, J, Atp. 9; 33 A L R 61, at p 64

Held by the High Court (Isaces, Powers, Rich and Dixon, JJ, Isaacs and Starke, JJ, Held by the High Court (Isaces, Powers, Rich and Dixon, JJ, Isaacs and Starke, JJ, Held by th

As to whether this placitum, either alone, or read with s 61, supports the provisions contained in s. 30A of the *Grimes Act* 1914-1926 as to the prohibition of associations which by their constitutions or propaganda advocate or encourage the overthrow of the Constitution of the Commonwealth by revolution or of the established government of the Commonwealth by force or violence, see R. v. Hush. Ex parte Devanny, (1932) 48 C L.R. 487, at pp. 506, 510.

As to whether the constitutional power of the Commonwealth to accept the mandate for New Guinea is derived from this placitum, see Jolley v. Mainku, (1933) 49 C L.R. 242, at p. 250, 39 A L.R. 508, at 508.

As to whether this placetum. Combination with s 77 (iii), empowers the Parliament to enact new remedies, or merely to give State Courts a Federal authority to administer existing remedies, see Williams v R. (No. 2), (1934) 50 C L R. 551, at pp. 558-9, 40 A L.R. 314, at p. 316

Placitum relied upon by Rich, J., in support of the view that the manufacture, at the Commonwealth Clothing Factory established under s 63 of the Defence Act, of uniforms for State officers, and for employees in various public utilities and institutions in the State, and for some private persons, is incidental to the defence power Attorney-General for Victoria v Commonwealth, (1935) 52 C.L.R. 533, at pp. 562-3, 41 A.L.R. 246, at p. 252.

at pp. 302-3, 41 A.L.R 246, at p. 252.

As to whether, if s. 67 (1) of the Income Tax Assessment Act 1922-1934—which imposes an additional tax or a minimum sum of £1—in effect penalizes an offence, the doing of this otherwise that by means of the judicial power is incidental to the legislative power with respect to taxtion, see Jolly v. Federal Commissioner of Taxation, (1935) 53 C.L.R. 206, at p. 211; 41 A.L.R. 211, at pp. 212-3.

As to whether the Dried Fruit Export Control Act 1924-1935 (Commonwealth) depends on this placitum, see Crowe v. Commonwealth, (1935) 54 C.L.R. 69, at pp. 82-3, 91, 95-6; 41 A.L.R. 445, at pp. 447, 450, 452.

(c) As to whether, within the meaning of this placitum, State Courts invested with Federal jurisdiction form part of the "Federal Judicature", and their jurisdiction is a power "vested by this Constitution", see Le Mesurier v. Connor, (1929) 42 C L.R. 481; 36 A.L.R. 41; 1 A.B.C 97

(d) As to the meaning of the expression "Officer of the Commonwealth" in this placitum, see R. v. Murray and Cormic: Exparte Commonwealth, (1916) 22 C L.E. 437, at pp. 453, 471; 22 A L.R. 613, at pp. 419 426.

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Exclusive powers-of the Parliament.

52(a). The Parliament shall, subject to this Constitution(b), have exclusive(6) power to make laws for the peace, order, and good government(1) of the Commonwealth with respect to (e)_

NOTES OF CASES—(a) As to whether matters of legislation included in this section and in s 51 are matters "within the powers of the Parliament of the Commonwealth" within the meaning of s. 108 of the Constitution, see Municipal Council of Sydney v Commonwealth, (1904) 1 CLR 208, at p. 232;

10 A L R (C N) 29

Scheme of this section and s 51 in conferring on the Commonwealth certain definite and specified powers, and leaving the residue to the States, compared with corresponding sections of the Constitution of the United States. Dealin v Webb, Lune v Webb (1904), 1 C L R. 585, at p 605, 10 A L R. 237,

at p 240

(b) Words "subject to this Constitution" relied on by Higgins, J, in support of the view that s 84 preserves the existing and accruing rights of officers of transferred Departments notwithstanding the provisions of plactium (ii) of this section Le Leu v Commonwealth, (1921) 29 C L R 305, at p 314, 27 A U R 242, at p 246

See also notes on same words in s 51, supra p 21

(c) As to whether the exclusive power contained in this placitum has the effect of exempting the Commonwealth from State taxation, see Municipal Council of Sydney v Commonwealth, (1904) 1 C L R. 208, at p 234, 10 A L R (C N) 29

Hold by Isaacs, J, that the word "exclusive" in this section means simply exclusive of State Parliaments, exclusive as opposed to concurrent Nott Bros. & Co Ltd v Barkley, (1925) 36 C L R. 20, at p 29, 31 A L R 256, at p 250

Maxim expression numus est exclusive alterius applied by Higgins J, in support of the view that the only exclusive powers of the Commonwealth are those expressed or declared to be exclusive Roughley v New South Wales Exparte Beaux, (1928) 42 C L R 162, at p 198, 35 A L R 1, at p. 13

(4) See notes contained in inothote (c), supra, p 21

(d) See notes contained in tootnote (c), supra, p 21

(e) See notes contained in note (d) commencing at foot of p 21, supra

(1.) The seat of government of the Commonwealth (a), and all places acquired by the Commonwealth for public purposes $^{(b)}$:

NOTES OF CASES --(a) As to whether the Legislature is empowered to invest the High Court with original jurisdiction in respect of the Perritory for the Seat of Government, see Federal Capital Commission v. Laristan Building and Investment Co Pty Ltd., (1929) 42 CLR 582

Commission V. Laristan Building and Investment Co. Pty. Ltd., (1929) 42 C.L.R. 582

(b) Question whether on the acquisition of any place by the Commonwealth for public purposes, the place ceases to be within the jurisdiction of Courts of the States, discussed by the New South Wales Supreme Court in Banco. R. v. Bamford, (1901) 1.S.R., N.S.W.) 337

Question whether on the acquisition of any place by the Commonwealth the place becomes subject to the exclusive legislative power of the Commonwealth so as to exempt public servants employed by the Commonwealth at that place from the Income Tax law of the State in which the place is situated, discussed by Full Court of the Supreme Court of Victoria. In retineone Tax Acts (No. 4), Wollusion's Case, (1902) 28 V.L.R. 357, at p. 376, 391–2. 8. A.L.R. 188, at pp. 192, 198, 24 A.L.T. 63, at pp. 66, 72.

As to the effect of the exclusive power conferred on the Parliament by this placitum with respect to places acquired by the Commonwealth for public purposes, see Commonwealth v. New South Wales, (1923) 33 C.L.R. 1, at pp. 43, 46, 60, 29 A.L.R. 401, at pp. 414, 416, 421

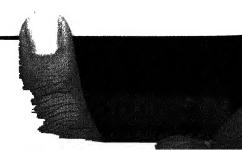
(ii.) Matters relating to any department of the public service(a) the control of which is by this Constitution transferred to the Executive Government of the Commonwealth^(b):

NOTES OF CASES.—(a) As to whether this placitum, either alone or read with s. 61, supports s 8AA of the Immigration Act 1901—1920—which empowers the Minister in certain events to refer to a Board the question whether certain persons not born in Australia should be deported from the Commonwealth—see Exparte Walsh and Johnson: In re Yates, (1925) 37 C L.R. 36, at pp 61, 70, 81, 94, 108, 127, 133, 136, 32 A L.R. 46, at pp 51, 54, 58, 63, 69, 76, 79, 80

(b) As to whether, on the transfer of a Department to the Cammonwealth, the official abiding place of the officers of that Department is the office of the Commonwealth, so that the officers are in pursuance of this placetum, within the exclusive legislative power of the Cammonwealth, so as to be exempt from the Income Tax law of the State in which the place is situated, see In re Income Tax Acts (No 4), Wolfaston's Case, (1902) 28 V L R 357, at pp 375-7, 391-2, 8 A L R 188, at pp. 192-3, 198, 24 A L T 63, at pp 66-7, 72

Held by the High Court that, so far as the Postal Department is concerned, the provisions of the Audit Act as to collection and payment of moneys fall within the words of this placitum. D'Emden v. Pedder, (1904) 1 C.L.R. 91, at p. 100; 10 A L.R. (C N.) 30.

Held by the High Court that this placitum renders it impossible to regard section 60 of the Commonwealth Public Service Act 1902 - which is a re-enactment of the provisions of s 84 of the Constitution - as preventing the application to transferred officers of the provisions of the Commonwealth Public Service Act 1902 as to the classification or grading of officers and the determination of their salary limits. Cousins v Commonwealth, (1906) 3 U.L.R. 529; 12 A.L.R. 175.



As to whether the compeiency of the Parliaments of the States to enact general penal statutes abridged by the power, conferred upon the Pailiament of the Commonwealth by the Constitution, of creating and punishing offences relating to departments the control of which is by the Constitution transferred to the Executive Government of the Commonwealth, see R v 3LDomaid. (1908) 8 W A L R 149 Held by the High Court that, in view of this placitum, and s. 86 and 90, the Customs Act 1901 was validly enacted and applies to good, imported by the Government of a State as well as to those imported by private persons R v Sulton, (1908) 5 C L R 789, at pp 797, 803, 14 A L R 505, at pp 508, 510

Held by the High Court (Barton, J) that the Customs Act 1901 was passed in pursuance of the power conferred by this placitum, as well as in pursuance of placita (1) and (11) or s 51 Jupons v Snaut, (1908)

C C L R 143 at p 154 14 A L R 328 at n 332

Placitum cited by Isaacs, Powers and Rich, JJ in support of the view that the defence power is exclusively assigned to the Commonwealth Joseph v Colonial Treasurer (N S W), (1918) 25 C L R 32, at p 46, (see also p 511, 24 A L.R 185, at pp 190-1 (see also p 193)

Placitum cited by Higgins, J, as a sufficient authority for upholding so much of the decision of the High Court in the case of D'Emden v Pedder (1 C.T. R 91) as was based on the ground that the State law was interfering with the Commonwealth activities over which the Commonwealth Parliament had exclusive power Imalgariated Society of Engineers r Adelaide Steamship Co Lid. (1920) 28 C L R 129, at pp 167-8, 26 A L R 337, at p 349

Held by Higgins, J, that, notwith-tar-ding the provisions of this placitum, the existing and accraing rights of others of transferred Departments are pre-erved by s 84, as this placitum is "subject to this Constitution" Le Leu v Commonwealth, (1921) 29 C L R 305, at p 314, 27 A L R 242, at p 246

As to whether is 85 (iv) of the Constitution operates as a limitation of the powers of the Commonwealth Parliam

Excise when read with as 69 and 90 Er parte Nelson (No 1), (1928) 42 C L R 209, at p 240, 35 A L R 21, at p 31
As to the effect of s 84 of the Constitution in limiting the power of the Commonwealth to legislate under this placitum with respect to matters relating to transferred Departments, see Pemberton v Commonwealth, (1933) 49 C L R 382, at pp 389, 397, 39 A L R 282, at pp 283, 288
As to whether this placitum prevents the States from granting to others subsequently to their transfer to the Commonwealth Service additional pension rights, see Pemberton v Commonwealth, (1933) 49 C L R 382, at pp 391, 395, 39 A L R 282, at pp 286-7
As to whether this placitum gives power to the Parliament to legislate with respect to the subject-matter with which the transferred Departments deal, see R v Brisher Ex parts Williams, (1935) 54 C L R, 262, at p 275, 42 A L.R. 45, at p. 49

(iii.) Other matters declared by this Constitution to be within the exclusive power of the Parliament

53.(a) Proposed laws appropriating revenue or moneys(b), or imposing Powers of the taxation(c), shall not originate in the Senate. But a proposed law shall r not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences(d), or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual

services of the Government.

The Senate may not amend any proposed law so as to increase any

proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.



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Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Notes of Cases—(c) Meaning of secs 53 and 55 discussed by the Full Court of the Supreme Court of Victoria Stephens v Abrahams (No 2), (1903) 29 V.L.R. 229, 9 A.L.R. 89, 24 ± L.T. 216
Section cited by Barton, J, as an instance of the generic term "taxation" including duties of rections and duties of excise, whereas in 55 the generic term "taxation" and the specific terms "duties of customs" and "duties of ercise" are used Attorney-General of New South Wales v Collector of Custoris for New South Wales, (1908) 5 C.L.R. 818, at p. 838, 14 A.L.R. 516, at p. 523
Section cited by Fenacs, J. as showing the object and effect of the first paragraph of s. 55. G. G. Crespin & Son v. Colae Cooperative Farmers Ltd., (1916) 21 C.L.R. 205, at p. 217; 22 A.L.R. 86, at p. 90.

p 90.

As to the effect of a breach of the provisions of this section on the validity of an Act, see Osborne v Commonwealth, (1911) 12 C L R 321, at pp 336, 351-3, 355-6, 365, 373; 17 A L R. 242, at pp 245, 251-3, 256, 259; Buchanan v Commonwealth, (1913) 16 C L R 315, at pp 329, 335; 19 A.L R 251, at pp 255, 257, Federal Commussioner of Taxation v Munico, (1926) 38 C L.R. 153, at pp 186, 188, 210, 32 A L R 339, at pp 352-3, 361

(b) Per Isaacs and Rich, JJ. An Appropriation Act of the Commonwealth Parliament appropriating money towards payment in respect of an agreement made by the Executive Government on behalf of the Commonwealth, which agreement, without Parliamentary authority, would be invalid, does not validate that agreement Commonwealth v Colonual Ammuniton Co Ltd., (1924) 34 C L R 198 See also New South Weles v Bardolph, (1934) 52 C L R 455, 41 A L R 22.

(c) As to whether the payment to the Commonwealth by a wool-top manufacturing company of a stare of the profits (called a heence fee), in return for consent by the Commonwealth to a sale of wool-tops by the Company is "taxation" within the meaning of this section, see Commonwealth v. Colomal Combing, Spinning and Wearing Co Ltd., (1922) 31 C L R 421, at pp 443 et seq., 460: 29 A L R 188, at pp. 114 et seq., 151

(d) As to whether the payment to the Commonwealth by a weel-top manufacturing company of a rhare of the profits (called a hrence fee), in return for consent by the Commonwealth to a sale of weel-tops by the Company is a fee for a hience within the meaning of this section, see Commonwealth v Colonial Combing, Spinning and Weaving Co. Ltd., (1922) 31 C L R 421, at pp 481-5; 29 A L E 138, at

Appropriation Bills.

54.(a) The proposed law which appropriates revenue or moneys (b) for the ordinary annual services of the Government shall deal only with such appropriation.

Notes of Cases —(a) As to the effect of a breach of the provisions of this section on the validity of an Act, see Osborne v Commonwealth, (1911) 12 C.L.R. 321, at pp 336, 351-3, 355-6, 365, 373-4; 17 A.L.R. 242, at pp, 245, 251-3, 256, 259. Buchanan v. Commonwealth, (1913) 16 C.L.R. 315, at p. 329, 19 A.L.R. 251, at p. 255.

(b) Per Isaacs and Rich, JJ.: An Appropriation Act of the Commonwealth Parliament appropriating money towards payment in respect of an agreement made by the Executive Government on behalf of the Commonwealth, which agreement, without Parliamentary authority would be invalid, does not validate that agreement. Commonwealth v. Colonial Ammunition Ci. Ltd., (1924) 34 CL R. 198. See also New South Wales v. Bardolph, (1934) 52 CL R. 455; 41 A.L.R. 22

Tax Bill.

55. (a) Laws imposing taxation (b) shall deal only with the imposition of taxation (c), and any provision therein dealing with any other matter (d) shall be of no effect.

Laws imposing (c) taxation, except laws imposing duties of customs or of excise, shall deal with (e) one subject of taxation only (f); but laws imposing duties of customs shall deal with duties of customs only (9), and laws imposing duties of excise shall deal with duties of excise only.

NOTES OF CASES.—(a) Held by the High Court that the limitations imposed by this section upon the mailing of laws imposing taxation apply only to such laws as are made under the power conferred by 5.51 (ii), and do not apply to laws nade under the power conferred by 5.51 (ii), and do not apply to laws nade under the power conferred by 5.122 to make laws for the government of Territories. Buchanan v Commonwealth, (1918) 16 C.L.R. 315; 19 A.L.R. 251.

(b) Reld by the Full Court of Victoria that Part VIII of the Customs Act 1901 (Commonwealth) is not a "law-imposing taxation" within the meaning of this section Stephens v Abrahams (No. 2), (1903) 29 V.L.R. 229, 9 A L.R 89, 24 A.L T 216.

As to the generic term "taxation" in this section including customs and excise duties, see Attorney-General for New South Wales v. Collector of Customs, New South Wales, (1908) 5 C.L.R. 818, at pp. 850, 855: 14 A L R. 516, at pp. 527, 529.



Section cited by Barton, J as an instance of the use of the generic term "taxation", and the specific terms "duties of customs" and "duties of excise", whereas in s 53 the generic term "taxation" includes duties of customs and duties of excise · Attorney-General for New South Wales v. Collector of Customs for New South Wales, (1903) 5 C L R 818, at p. 838; 14 A L R 518, at p. 523

As to whether s 7 of the Customs Taruff 1908—which provides inter alia that all duties of customs collected pursuant to any tariff or taruff alteration shall be deemed, to have been lawfully imposed and collected—is a "law imposing taxation" within the meaning of this section, see Surgood Bros. v. Commonwealth, (1910) 11 C L R 258, at pp. 267, 274, 280, 287; 16 A L R, 483, at pp. 486, 485, 491, 494.

As so whether the Customs Act 1901 is a law imposing taxation, see G G Crespin & Son v. Colac Co-operative Farmers Itd., (1910) 21 C L R 205, at p. 217; 22 A L R 86, at p. 90

As to whether the Land Tux Assessment Act 1910 is a law imposing taxation, see Osborne v. Commonwealth, (1911) 12 C L R 321, at up. 335-6, 349, 354-6, 372, 17 A L R 242, at pp. 245, 250, 252, 3, 253

Argument that s. 16 (2) of the Income Tux Assessment Act 1915-1918—which provides that "where, in the opinion of the Commissioner, a company has not in any year distributed to its members of ireholders a reasonable proportion of its taxable income, the taxable income of the company shall be deemed to have been distributed to the members or shareholders in proportion to their interests in the paid-up capital of the Company, if the Commissioner is satisfied that the total tax payable on it as distributed income is greater than the tax payable on it by the company "—imposes a penalty and is not income tax, and is therefore a contravention of this section and of no effect, not upheld by High Court. Cornell v. Deputy Federal Commissioner is stassified that the total tax payable on it as not income tax, and is therefore a contravention of this section and of no effect, not up

A L R 295
Held by the High Court that the provision in v 48 of the Customs Act 1901-1916—which provides that "whenever any such customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated hability against the persons appearing to have execute the same unless the defendants shall prove compliance with the condition or that the security "..." not executed by them or release or satisfaction "—is a law relating to customs and not invalid under this section **Commonwealth v Melbourne Harbour Trust Commissioners, (1922) 31 C.L. R 1, 28 A L.Z. 325

that the security. N.C. not executed by them or release or sabsfaction "—Is a law relating to constons and not involud under this section. Commonwealth v Melbourne Harbour Trust Commissioners, (1922) 31 C.L. R. 1, 28 A.L.Z. 325

As to whether the payment to the Commonwealth by a wool-top manufacturing company of a share of the profits (called a licence fee), in return for consent by the Commonwealth to a sale of wool-tops the profits (called a licence fee), in return for consent by the Commonwealth to a sale of wool-top manufacturing company of a share of the profits (called a licence fee), in return for consent by the Commonwealth to a sale of wool-top manufacturing company of a share of the profits o

(d) As to the meaning of 'other matter", see Stephens v Abrahams (No 2), (1903) 29 V L.R. 229, 9 A.L.R. 89, 24 A L.T. 216

(e) As to whether a law "dealing with" taxation is necessarily a law "imposing" taxation, see Ostorne v. Commonwealth, (1911) 12 C.L.R 321, at pp 335-6, 349, 355, 365, 373; 17 A.L.R 242, at pp. 245, 250, 252, 256, 259; Buchanan v Commonwealth, (1913) 16 C.L.R 315, at p. 328, 19 A.L.R 251, at p. 255.

As to whether a distinction exists between "laws imposing taxation" and laws "dealing with the imposition of taxation", see Federal Commissioner of Taxation v Muuro British Imperial Oil Co. Ltd. v. Federal Commissioner of Taxation, (1926) 33 C.L.R. 153, at p. 186; 32 A.L.R. 339, at p. 352,

(f) As to whether the transgression of the second paragraph of this section is fatal to the validity of the provision which so transgresses, see Osborns v Commonwealth, (1911) 12 C.L.R. 321, at pp 336-7, 350-3, 355-7, 372-4; 17 A.L.R. 242, at pp 245-6, 251-3, 259-60; Buchunan v Commonwealth, (1913) 16 C.L.R. 315, at p. 329, 19 A.L.R. 251, at p. 255.



Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Notes of Cases—(a) Meaning of sec. 53 and 55 discussed by the Full Court of the Supreme Court of Victoria Stephens v Abrahams (No 2), (1903) 29 V L R 229, 9 A L R 89, 24 A L T 216. Section cited by Barton, J, as an instance of the generic term "taxation" including dulies of customs and dulties of excise, whereas in s 55 the generic term "taxation" and the specific terms "dultes of customs" and "dulties of excise" are used "Attorney-General of New South Wiles v Collector of (ustoris for New South Wiles v Collector of (ustoris for New South Wiles v). As showing the object and effect of the first paragraph of s 55 G G Crespin & Son v Colae Cooperative Farmers Lid., (1916) 21 C L.R. 205, at p. 217; 22 A L R 86, at p 90

As to the effect of a breach of the programme of the content of the content

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As to the effect of a breach of the provisions of this section on the validity of an Act, see
Osborne v Commonwealth, (1911) 12 C L R 321, at pp 336, 351-3, 350-6, 365, 373; 17 A L R 242, at
pp 245, 251-3, 256, 259, Bachanax v Commonwealth, (1913) 16 C L R 315, av pp 329, 335; 19 A L R
251, at pp 2.55, 257; Federal Communications of Taxation v Munic, (1926) 38 C L R 153, at pp 186, 188,
210; 32 A L R 330, at pp 352-3, 361

(b) Per Isaw: and Rich, JJ: An Appropriation Act of the Commonwealth Parliament appropriating money towards payment in respect of an agreement made by the Executive Government on behalf of the Covam inwealth, which agreement, without Pirliamentary authority, would be invalid, does not addate that agreement Commonwealth's Colonial Amunition to Ltd. (1924) 34 C L R 198 See also New South Rules v. Bardolph, (1934) 52 C L R 455 41 A L R 22

(c) As to writher the payment to the Commonwealth by a wool-top manufacturing company of a stare of the profits (called a licence fee), in return for consent by the Commonwealth to a sale of wool-tops by the Company is "Landson" within the meaning of this section, see Commonwealth v. Colomal Combing, Spinning and Wearing Co Ltd., (1922) 31 C L R. 421, at pp. 443 et seq., 460. 29 A L R. 138, at pp. 144 et seq., 151.

(d) As to whenever the payment to the Commonwealth Ly a weed-top manufacturing company of a rhore of the profits (calle 1 a heence fee, in return for consent by the Commonwealth to a sale of worldows by the Company is a fee for wheence within the meaning of this section, see Commonwealth y Colonial Combins, Spinning and Wearing Co. Ltd., (1922) 31 C. L. R. 421, at pp. 481-5; 39 A. L. E. 138, at p 153

Appropriation Bills.

54.4 The proposed law which appropriates revenue or moneys (b) for the ordinary annual services of the Government shall deal only with such appropriation.

NOTES OF CAS: -(a) As to the effect of a breach of the provisions of this section on the validity of an Act, see Ostorne v. Cormonwealth, (1911) 12 C L.R. 321, at pp 336, 351-3, 355-6, 365, 373-4; 17 A.I. R. 242, at pp. 245, 251-3, 256, 239. Buchanan v. Commonwealth, (1913) 16 C L R. 515, at p. 329, 19 A L.R. 251, at p. 255

(b) Per I also and Rich, J.J. An Appropriation Act of the Commonwealth Parliament appropriating modely towards payment in respect of an agreement made by the Executive Government on behalf of the Commonwealth, which agreement, without Parliamentary attentity, would be invalid, does not validate that agreement. Commonwealth v Columnal Ammunition Cir. Ltd., (1924) 34 CL.R., 108 See also New South Wales v Eardolph, (1934) 52 CLR 455; 41 ALR 22

Tax Bill.

55. (a) Laws imposing taxation (b) shall deal only with the imposition of taxation (c), and any provision therein dealing with any other matter (d) shall be of no effect.

Laws imposing (c) taxation, except laws imposing duties of customs or of excise, shall deal with (e) one subject of taxation only (f); but laws imposing duties of customs shall deal with duties of customs only (9), and laws imposing duties of excise shall deal with duties of excise only.

NOTES OF CASES.—(a) Held by the High Court that the limitations imposed by this section upon the making of laws imposing taxation apply only to such laws as are made under the power conferred by 5. 12 to make laws for the government of Territories. Buchanan v Commonwealth, (1913) 16 C.L.B. 315; 19 A.L.B. 251.

(b) Held by the Full Court of Vectoria that Part VIII. of the Customs Act 1901 (Commonwealth) is not a "lay-imposing taxation" within the meaning of this section. Stephens v Abrahams (No. 2), (1903) 29 V.L.B. 222; 9 A.L.R. 80, 21 A.L.P. 216

As to the genetic term "taxation" in this section including customs and excise duties, see Attorney-General for New South Wales, Collector of Customs, New South Wales, (1908) 5 C.L.R. 818, at pp. 850, 855; 14 A.L.R. 516, at pp. 527, 529.



Section cited by Barton, J as an instance of the use of the generic term "taxation", and the specific terms "duties of customs" and "duties of excise", whereas in s 53 the generic term "taxation" includes duties of customs and duties of excise "Altorney-General for New South Wale., (1903) 5 C L R 818, at p 838; 14 Å L R 518, at p 523 As to whether 8 7 of the Customs Tarif 1908—which provides inter data that all duties of customs and collected pursuant to any tariff or tariff alteration shall be deemer to have been lawfully imposed and collected—is a "law imposing taxation" within the meaning of this section, see Sargood Bros v. Commonwealth, (1910) 11 C L R. 258, at pp. 267, 274, 280, 287, 16 Å L R 483, at pp. 486, 486, 491, 494.

As to whether the Customs Act 1901 is a law imposing taxation, see G G Crespin & Son v Colac Co-operative Farmers Ltd., (1910) 21 C L R. 205, at p. 217, 22 Å L R. 86, at p. 90

As to whether the Land Tax Assessment Act 1910 is a law imposing taxation, see Osborne v Commonwealth (1911) 12 C L R. 321, at pp. 325–3349, 534–6, 532, 17 Å L R. 242, at pp. 245, 250, 252-3, 259

Argument that s. 18 (2) of the Income Tax Assessment Act 1915-1918—which provides that "where, in the opinion of the Commissioner, a company has not in any year distributed to its members or streholders a reasonable proportion of its taxable moome, the taxable moome of the company shall be desirable deciment and is therefore a contravention of this section and of namposes a peralty and is not meome tax, and is therefore a contravention of this section and on effect, not uphed by High Court Cornell v. Deputy Federal Commissioner of Taxation (South Austraha), (1920) 29 C L R. 29, 28

Held by the High Court that the provision in v. 18 of the Customs Act 1901-1916—which, provides that the town and the tax payable on it is a taxable to the tax payable on the company "managose a peralty and is not memoria."

instributed income is greater than the tax payable on it by the company—inposes a pertaty, and is not income tax, and is therefore a contravention of this section and of no effect, not inpiled by High Court Cornell v. Deputy Federal Commissioner of Tazation (South Austraha), (1920) 20 C L E 39, 28 A L E 25.

A L R 25.

A stowhere any such customs security is put in suit by the Collector the production thereof without further proof shall ontile the Collector to judgment for their stated liability against the persons of the time of the security, in a condition of the security is put in suit by the Collector the production thereof without further proof shall ontile the Security in a condition of the security is put in suit by the Commonwealth tay and the tending of the profits (called a licence fee), in return for consent by the Commonwealth to a sale of wool-tops by the company, is taxation, see Commonwealth by a wool-top manufacturing company of a share of the profits (called a licence fee), in return for consent by the Commonwealth to a sale of wool-tops by the company, is taxation, see Commonwealth by a wool-top manufacturing company of a share of the profits (called a licence fee), in return for consent by the Commonwealth to a sale of wool-tops by the company, is taxation, see Commonwealth by a wool-top manufactured under satisfactor, conditions of the company, is taxation, see Commonwealth by a wool-top manufactured under satisfactor conditions of the company, is taxation, and the profits of the commonwealth to a sale of wool-tops in return the condition of the commonwealth of the commonwealth to a sale of wool-tops in the company, is taxation, and a sole and the satisfactor conditions of the condition of the commonwealth profits of the commonwealth to the commonwealth profits of the commonwealth to the commonwealth profits of the commonwealth to the commo

(d) As to the meaning of 'other matter'', see Stephens v. Abrahams (No. 2), (1903) 29 V L R. 229, 9 A L R. 89, 24 A L T. 216

(e) As to whether a law "dealing with" taxation is necessarily a law ".mposing" taxation, see Osborne v. Commonwealth, (1911) 12 C.L.R. 321, at pp 335-6, 349, 355, 365, 373; 17 A.L.R. 242, at pp. 246, 250, 252, 256, 259; Buchanan v Commonwealth, (1913) 16 C.L.R. 315, at p. 328; 19 A.L.R. 251, at p. 255.

As to whether a distinction exists between "laws imposing taxation" and laws "dealing with the imposition of taxation", see Federal Commissioner of Taxation v Munro British Imperial Oil Co. Ltd. v Federal Commissioner of Taxation, (1926) 38 C.L.B. 153, at p 186; 32 A.L.R. 339, at p. 352

(f) As to whether the transgression of the second paragraph of this section is fatal to the validity of the provision which so transgresses, see Obsorne v. Commonwealth, (1911) 12 C L.R. 321, at pp. 336-7, 350-3, 355-7, 372-4; 17 A.L.R. 242, at pp. 245-6, 251-3, 259-60; Buchanan v Commonwealth, (1913) 16 C.L.R. 315, at p. 329; 19 A.L.R. 251, at p. 25-6.

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As to whether the Land Tax Assessment Act 1910 deals with more than one subject of taxation see Osborne v. Cormonouseath, (1911) 12 C.L.R. 321, at pp 335-40, 349-50, 355, 357, 362-4, 372-3; 17 A.L.R. 222, at pp 245-7, 250-3, 255-6, 259.

Held by the High Court (Knox, C.J., Isaacs and Rich, J.J.) that the tax imposed by the combined effect of s. 28(1) of the Income Tax Assessment Act 1922-1923 and the Income Tax Assessment Act 392-1923 and the Income Tax Assessment Act 392-1924 and 1923 is not a subject of taxation different from that dealt with by the other provisions of those Acts, and that those Acts are not in that respect obnovious to the provisions of this section. Intuité Imperial Oil Co. Lid v Federal Commussioner of Taxation, (1925) 35 C.L.R. 422; 31 A.L.R. 129

Held by the High Court that the provision in s. 14 (5) of the War-time Profits Tax Assessment Act 1917-1918—which in certain events imposed on the transferee of a business a personal hability to pay war-time profits tax on profits earned in the business prior to the transfer—did not deal with a subject of taxation other than war-time profits, and was therefore not obnoxious to this section Federal Commussioner of Taxation v. Hysleys Ltd., (1926) 38 C.L.R. 219, 32 A.L.R. 432.

Held by the High Court that s. 20 (2) (b) of the Income Tax Assessment Act 1922-1932—which requires a company to pay income tax on the interest paid by it to any person, who is an absentee, on money alsed by debentures of the company and used in Australia—is not invalid as having an extracteritorial application, or as contravening this section as dealing with more than one subject of taxation, (1934) 51 C.L.R. 172. 40 A.L.R. 187, 2.A.T.D. 457

Quaere, per Rich and Dixon, J.J., whicher is 67 (1) of the Income Tax Assessment Act, in imposing an aduitional tax

pp 212-3
See also notes (c) and (e) supra, as to Federal Commissioner of Taxation v Munro.

(9) Observation as to separation of Customs Acts (i.e., the machinery Acts) from the Customs Tariffs (i.e., the taxing Acts). Commonwealth v Melbourne Harbour Trust Commissioners, (1922) 31 C.I.R. 1, at p 14; 28 A L R 325, at p 331 Held by the High Court that s 8 of the Customs Turif (Industries Preservation) Act 1921–1922 deals with duties of customs only, and therefore does not infringe the second paragraph of s. 55 of the Constitution Nott Bros & Co. Ltd v. Barkley, (1925) 36 C.I. R. 20; 81 A L.R. 256.

Recommenda-tion of money

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

Disagreement between the Houses,

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously(1). But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been



made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the. amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and the House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the trovernor-General for the Queen's assent.

GENERAL NOTES —(1) Up to the date of the preparation of this volume the only double dissolution which had occurred was that which took place in 1914, the proposed law occasioning it being the Government Preference Prohibition Bill which was twice passed by the House of Representatives and twice rejected by the Senate

58. When a proposed law passed by both Houses of the Parliament Royal Assent to is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution. that he assents(a) in the Queen's name, or that he withholds assent, or that he reserves(') the law for the Queen's pleasure.

The Governor-General may return (1) to the House in which it Recommendaoriginated any proposed law so presented to him, and may transmit tions by Governortherewith any amendments which he may recommend, and the Houses

may deal with the recommendation.

GENERAL NOTES —(1) Up to the date of the preparation of this volume, the following Bills have been reserved in pursuance of this paragraph:—

Customs Tariff (British Preference) 1906.

Navigation Bill 1912 (now Act No 4, 1913).

Navigation Bill 1919 (now Act No 32, 1919).

Navigation Bill 1925 (now Act No 1, 1921).

Navigation Bill 1925 (now Act No 8, 1925).

Navigation Bill 1926 (now Act No 8, 1925).

Navigation Bill 1926 (now Act No 3, 1926).

Navigation (Maritime Conventions) Bill 1934 (now Act No 49, 1934).

Navigation Bill 1936 (now Act No 30, 1935).

Navigation Bill 1935 (now Act No '30, 1935).

(a) Up to the date of the preparation of this volume, the following proposed laws have been returned, in pursuance of this paragraph, to the House in which they originated:—
Commonwealth Electoral Bill 1902 (Senate Journals, 1901-2, pp. 575-6).
High Court Procedure Bill 1903 (House of Representatives Votes and Proceedings, 1903, p. 110).
Life Assurance Companies Bill 1905 (House of Representatives Votes and Proceedings, 1905, p. 133).
Customs Tariff (British Preference) Bill 1906 (House of Representatives Votes and Proceedings, 1906, p. 175)
Seamen's Compensation Bill 1911 (House of Representatives Votes and Proceedings, 1911, p. 169).
Navigation Bill 1912 (Senate Journals, 1912, p. 209)
Customs Tariff Bill 1926 (House of Representatives Votes and Proceedings, 1926-27-28, p. 212).
Excise Tariff Bill 1927 (Mouse of Representatives Votes and Proceedings, 1926-27-28, p. 530)
Income Tax Bill 1931 (House of Representatives Votes and Proceedings, 1926-27-29, p. 530).
Navyer of Clayse (2) As to whether a Bill separated to by the Covygor-General in the first place.

Notes of Cases —(a) As to whether a Bill assented to by the Governor-General in the first place. could be subsequently "reserved" for the signification of His Majesty's pleasure, see John Sharp & Sons Ltd. v The "Kutherine Mackall", (1924) 34 C.L B. 420, at p 429; 30 A.L B. 321, at p. 325

59. The Queen may disallow(1) any law(2) within one year from the Disallowance by Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

GENERAL NOTES.—(1) Up to the date of the preparation of this volume, no laws have been disallowed in pursuance of this section

NOTES OF CASES.—(a) Per Barton, A C J. "Law" in this section means a complete law passed by 1 oth Houses, and assented to by the Governor-General. Buchanan v. Commonwealth, (1913) 16 C L R. 315, at p. 329; 19 A L.R. 251, at p. 255

Signification of Queen's easure on

60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.(1) (a)

GENERAL NOTES.—(1) Up to the date of the preparation of this volume, the only proposed law reserved for the Royal assent, which failed to receive the Royal assent, was the Customs Tariff (British Preference) 1906

For list of proposed laws reserved for the Royal assent up to the date of the preparation of this volume, see notes to section 58 (supra)

Noise of Cases.—(a) As to the application of this section in a case where a Bill had been in the first in-tance assented to by the Governor-General, and subsequently reserved for the signification of His Majerty's pleasure, His Majerty's assent not being declared until after the expiration of two years from the day on which the Bill war presented to the Governor-General for assent, see John Sharp & Some Ltd. 7 The "Katherine Muckall", (1924) 34 C L R 420, at pp 436-1, 433, 30 A L.R 321, at pp. 325 6

CHAPTER II THE GOVERNMENT

Executive

CHAPTER II."-THE EXECUTIVE GOVERNMENT.

61.(a) The executive power(b) of the Commonwealth is vested in the Queen and is exercisable by the Governor-General(c) as the Queen's representative, and extends to the execution and maintenance (d) of this Constitution, and of the laws of the Commonwealth. (6)

GENERAL NOTES —(1) Following is a list of the Ministries which have held office in the Commonwealth since its establishment .—

Name of Ministry.			Period of Office.			
Barton Ministry			1st January, 1901, to 24th September, 1903			
Deakin Ministry			24th September, 1903, to 27th April, 1904			
Watson Ministry .			27th April, 1904, to 17th August, 1904			
Reid-McLean Ministry			18th August, 1904, to 5th July, 1905			
Deakin Ministry			5th July, 1905, to 13th November, 1908			
Fisher Ministry			13th November, 1908, to 1st June, 1909			
Deakin Ministry .			2nd June, 1909, to 29th April, 1910			
Fisher Ministry .			29th April, 1910, to 24th June, 1913			
Cook Ministry			24th June, 1913, to 17th September, 1914			
Fisher Ministry .			17th September, 1914, to 27th October, 1915			
Hughes Ministry .			27th October, 1915, to 14th November, 1916			
Hughes Ministry			14th November, 1916, to 17th February, 1917			
Hughes Ministry .			17th February, 1917, to 10th January, 1918			
Hughes Ministry .			10th January 1918, to 9th February, 1923			
Bruce-Page Ministry			9th February, 1923, to 22nd October, 1929			
Scullin Ministry .			22nd October, 1929, to 6th January, 1932			
Lyons Ministry			6th January, 1932, to *			

· Still in office at the date of the preparation of this volume

Notes of Cases.—(a) As to whether s 101 of the Constitution is in effect an exception from, or provise to, this section, so far as relates to the execution and maintenance of laws relating to trade and commerce, see Huddart Parker & Co. Ply Lid v. Moorehead, (1909) 8 Cl. R. 330, at pp. 358, 376, 387, 18 Al R. 241, at pp. 251, 257-8, 262.

As to this section, with is 51 (vi), carrying the Royal war prerogative, and all that the common law of England includes in that prerogative so far as it is applicable to Australia, see Farey v. Burrett, (1916) 21 Cl. R. 433, at p. 452, 22 A.L.R. 201, at p. 209.

As to the Royal prerogative as to war being exercisable in Australia, not by State Ministers, but by the flovernor-deneral and his Federal Ministers, see Joseph v. Colonial Treasurer (N.S.W.), (1918) 25 Cl.R. 32, at p. 51; 24 A.L.R. 185, at p. 193

As to the effect of acts not authorized by this section, see Commonwealth v. Colonial Combing, Spinning and Hearing Co. 131, 1922) 31 Cl. R. 421, at p. 432; 29 A.L.R. 138, at p. 140.

As to the power which the section confers upon the Governor-General or the Prime Minister to enter into contincts on Febrilio the Commonwealth, see Kadman v. Commonwealth, (1925) 32 A.L.R. 1, at p. 2 See also Commonwealth v. Colonial Services of Lid. (1924) 34 Cl. R. 198; New South Wales v. Bardolph, (1934) 52 Cl. R. 455, at p. 515; 41 A.L.R. 22, at p. 44.

As to whither this section, either alone or read with s. 51 (xxix) or s. 52, supports s. 8aA of the Immigration Act 1901–1920 —which empowers the Minister in certain events to refer to a Board the question whether certain persons ant born in Australia should be deported from the Commonwealth see Expantic Walsh and Johnson 'In re Vates, (1925) 37 Cl. R. 3c, at pp. 70, 108, 122, 127, 136; 32 A.L.R. 46, at pp. 54, 69, 74, 76, 80.

Section clied in support of the validity of s. 6 of the Financy of Agreement Enforcement Act 1930.

See Experie 11 ash Bing demander. The vaces, speed of the Financial Agreement Enforcement Act 1932. Ag. 45 at p. 51. 69. 74. 76. 80.

Section cited in support of the validity of s. 6 of the Financial Agreement Enforcement Act 1932. New South Wales v. Commonwealth (No. 1), (1932) 46 C.L.R. 155, at pp 181, 185; 38 A.L.R. 245, at

New South Wales v. Commonweaum (No. 1), (No. 2)
pp. 251, 255
As to whether this section, either alone or read with s. 51 (xxxix), supports the provisions contained in s. 304 of the Crimes Act 1914-1926 as to the prohibition of associations which by their constitution or propaganda advocate or encourage the overthrow of the Constitution of the Commonwealth by revolution or of the established government of the Commonwealth by force or violence, see R. v. Hush: Bx parts Dreamy, (1932) 48 C.L. Rr 487, at pp. 506, 510



Per Latham, C.J. Under this section the Executive Government of the Commonwealth can deal administratively with the external affairs of the Commonwealth R v Burgess Ex parte Henry, (judgment del vered 10th November, 1936).

Per Letham, C.J. Action by the Commonwealth under this section is action for a political entity, e. the Commonwealth, and not for all or any of the States or Territories. Itself.

(b) Per Higgins, J. (President of the Commonwealth Court of Conclusion and Arbitation.) The Government has no power to establish a trib mall by executive action, and any tribunal so established is unconstitutional, and illegal. Waterside Workers' Fideration v Commonwealth Stambup Owners' Association, (1920) 14 CAR 276.

Held by Know, C.J., that s. S. of the Immigration (id 1901-1920—which empowers the Minister in certain events to require a person not begin in Australia to superious within three years after his irrival in Australia before a Board appointed by the Should not be deported from the Commonwealth, and, in certain events, or make an order for the person's deportation—is not instand as purporting to vest in the Minister or the Board portion of the executive power of the Commonwealth R v Materialine Exparte O'Flanagan and O'Kelly, (1927) 32 CLR 213, at pp. 536, 533; 29 A LR 253, at pp. 559-60.

R v Maifailane Exparte O'Flanagan and O'Kalu, (1923) 32 C L R 13, at pp 539, 533; 23 A L R 353, at pp 530-40
As to whether the executive power may be invoked in support of a contract entered into by the Australian Commonwealth Shipping Board to supply certain turbo-alternator sets to the Maintipal Council of Sydney, see Commonwealth v Australian Commonwealth Shipping Board, (1925) 39 C L R 1, at p 10; 33 A L R 61, at p 64
As to the "executive power" being a generic term, and as to the specific limits of first power Loing determined alunde, see Le Meaurer v Convo., (1929) 42 C L R 481, at p 514, 26 A L R 41, at p 50, As to whether the surface constants.

As to whether this section constitutes a sufficient authority to the Commonwealer to impurfacture, at the Commonwealth Clothing Factor established under s. G. on the Lorine Act, uniforms for Size officers and for employees in various public utilities and institutions in the state, and for some presents, see Attoney-Central for Veteria v. Common ceath, (1955) 52 (f. R. 553, at pp. 555, 559, 569-7, 41 A. l. R. 256, at pp. 239, 251, 254

41 A L R 246, at pp 249, 251, 254

(a) As to the validity of a provision in z. 2 (2) of the War Precautions Act 1914-1918 empowering the Governor-General to issue a proclamation of the ce sation of war, see Jerger v Parce. R. v Lloya, (1920) 28 C L R 588, at p. 594

As to the provision in this section relating to the "Governor-General" belog read with s. 2 of the Constitution, see Commonwealth v Colonial Comony, Spining and Wearing to Lt., (22, 31, 01, 24, 41, at p. 437, 29 A.L. R 138, at p. 142

Held by the High Court that agart from any authority conferred by an Act of the Parament of the Commonwealth, or by regulations thereunder, the Executive Governor, t. of the Commonwealth has no power to make or rathy an agreement with a company engaged of the complete for the for ashare in the profits. Commonwealth v Colonial Combine Spining and Wearing to, Ltd. (1922) 31 C.L. R 421, 29 A.L. R 138

As to the power of the Parliament (1) to confer upon the Governor-General wide rowers to make regulations, and (2) to declare that such regulations chall have the force of law notwithstanding anything in any other Act, see Victorian Streedoring and General Contracting Co. Pty Ltd. and Meales v. Digman (1931) 46 C.L.R. 73; 38 A.L.R. 22

(d) Meaning of "execution and maintenance" of Consumption and 1), s. of the Commonwealth

(d) Meaning of "execution and maintenance" of Constitution and D. s of the Commonwealth discussed by High Court State of New South Wales v. Commonwealth, (1915) 20 C L R 54, at p. 10s., 21 A.L.R 128, at p 151.

(e) As to the meaning of "laws of the Commonwealth" in this section see R v Dereascons, (1915) 19 C.I. R 629, at p. 635, 21 A L R 86, at p 83

As to the meaning of "the laws of the Commonwealth" see Commonwealth v Colonial Combing, Spinning and Wearing Co Lid., (1922) 31 C L R 421, at pp. 432, 438, 25 A L R, 138, at pp. 140, 142

62. There shall be a Federal Executive Council to advise the rederal Governor-General in the government of the Commonwealth, and the Council. members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during. his pleasure.

63. The provisions of this Constitution referring to the Governor- Provisions General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council

referring to Governor-

64. The Governor-General may appoint officers to administer such Minister of departments of State of the Commonwealth as the Governor-General in Council may establish.(1)

Such officers shall hold office during the pleasure of the Governor- Ministers to all General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.(a)

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

GENERAL Notes.—(1) Following is a list of the Departments of State established in pursuance of this section, and of the changes made prior to the date of the preparation of this volume, together with references to the relevant pages in the Gazette:—

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The Department of External Affairs
The Attorney-General's Department
The Department of Home Affairs
The Department of the Treasury
The Department of Trade and Customs
                                                             Established as from 1st January, 1901
(Gazette, 1901, p. 4)
The Department of Defence..
The Postmaster-General's Department
                                                             Estoblished as from 1st July, 1911 (Gazette, 1911, p 2393)
The Prime Minister's Department
                                                             Established as from 12th July, 1915 (Gazette,
The Department of the Navy
                                                                  1915, p. 1323)
The Department of Works and Railways
                                                             Established as from 14th November, 1916
(Gazette, 1916, p. 3177)
The Department of External Affairs-
                                                             As from 14th November, 1916 (Gazette, 1917, p. 353)
Renemed—
The Home and Territories Department
The Department of Home Affairs-
Renamed—
The Department of Works and Railways
                                                             As from 14th November, 1916 (Gazette, 1917.
                                                                  p 353)
The Department of Repatriation
                                                             Established as from 28th September, 1917 (Gazette, 1917, p. 2585).
                                                             Established as from 7th March, 1921 (Gazette 1921, p. 415)
The Department of Health ...
                                                             Established as from 21st December, 1921 (Gazette, 1921, p 2403)
The Department of External Affairs
The Department of Defence—
Established in heu of —
The Departments of Defence and of the Navy
                                                             As from 21st December, 1921 (Gazette, 1921, p. 2403)
                                                             Established as from 16th January, 1925 (Gazette, 1925, p 35)
The Department of Markets and Migration
                                                             Established as from 10th December, 1928 (Guzette, 1928, p. 3465)
The Department of Industry
The Department of Markets and Migration-
                                                             As from 19th January, 1928 (Gazette, 1928 p. 411)
The Department of Markets
The Department of Markets-
                                                             As from 10th December, 1928 (Gazette, 1928, p. 3465).
Renamed ---
The Department of Markets and Transport
The Department of Home and Territories-
                                                              As from 10th December, 1928 (Gazette, 1928,
The Department of Home Affairs
                                                                   p. 3465).
The Department of Markets and The Department of Transport—

Established in lieu of—
                                                              As from 21st April, 1930 (Gazette, 1930, p. 861).
The Department of Markets and Transport
The Department of the Interior-
Established in her of—
The Departments of Home Affairs, Transport and Works and Railways
                                                              As from 12th April, 1932 (Gazette, 1932, p. 520).
 The Department of Markets-
Renamed—
The Department of Commerce
                                                              As from 13th April, 1932 (Gazette, 1932, p. 543).
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The Departments of State in existence at the date of the preparation of this volume were therefore twelve in number, and (arranged in alphabetical order) are as follow:—

ranged in slphabetical order) are as Attorney-General's Department. Department of Commerce, Department of Eternal Affairs, Department of Eternal Affairs, Department of Health, Department of the Interior, Postmaster-General's Department, Prime Minister's Department, Perment, Department, Prime Minister's Department, Department of Trade and Customs, Department of the Trade and Customs, Department of the Treasury.

Notes of Cases—(a) As to the classes of contracts which Ministers of State might be authorized to make under this section, see Commonwealth v. Colonial Combing, Spinning and Weaving Co. Ltd., (1922) 31 C.L.R. 421, at p. 432; 29 A L.R. 138, at p. 140.

65. Until the Parliament otherwise provides(1), the Ministers of Number of Ministers. State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.

GENERAL NOTES .- (1) The Parliament has "otherwise provided" as follows, in pursuance of this

- (i) By the Munisters of State Act 1915, the number of Ministers of State was increased to eight.
- (ii) By the Munisters of State Act 1917, the number of Ministers of State was increased to nine.
- (11) By the Ministers of State Act 1935, the number of Ministers of State was increased to ten.

66. There shall be payable to the Queen, out of the Consolidated Salaries of Ministers Revenue Fund of the Commonwealth, for the salaries (a) of the Ministers of State, an annual sum which, until the Parliament otherwise provides. (4) shall not exceed twelve thousand pounds a year.

GENERAL NOTES —(1) The Parliament has "otherwise provided", in pursuance of this section, by means of the following Acts —

			Annual Sum Appropriated.		
			£	8.	d
			13,650	0	0
		 	15,300	0	Ð
			11,857	10	0
• •	••		 10,710	0	0
	••		12,240	0	0
		 	 13,560	0	0
			13,984	0	0
	 			Approp £	Appropriat

Notes of Cases—(a) Held by the High Court that the salaries of Ministers of the Crown, so far as they are earned in Victoria, are not liable to assessment under the Income Tax Acts of Victoria. Deakin v. Webb; Lyne v. Webb, (1904) 1 CL R. 585, 10 A L.R. 237 (Note—By the Commonwealth Salaries act 1907 the Parliament enacted inter aliar that subject to certain provisions, the taxation by a State, in common with other salaries earned within the State, of the allowances and salaries, paid after the commencement of that Act, of Members of the Parliament elected in the State and of Ministers of State for the Commonwealth and the Presiding Officer and Chairman of Committees of each House of the Parliament (all being respectively Members of the Parliament elected in the State), should not, if the taxation was not at a higher rate or to a greater extent than was imposed on other salaries of the same amount earned in the State, be deemed amount earned in the State, be deemed

- (i) to be an interference with the exercise of any power of the Commonwealth; or
- (ii) to be inconsistent with any Act by or in pursuance of which the salary was fixed or made payable.

67. Until the Parliament otherwise provides, (1) the appointment Appointment of the civil servants. and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority. (a)

GENERAL NOTES.—(1) Under various Acts the appointment and removal of officers has been vested in other authorities than the Governor-General For Acts passed in pursuance of this section, see list contained in Table of Commonwealth legislation, opposite to section 67 (supra pp. xxxv-xxxvii).

NOTES OF CASES,-(a) Held by the High Court that, in the case of an officer of the Civil Service of South NOTES OF CASES.—(a) Held by the High Court that, in the case of an officer of the Civil Service of South Australia who was retained in the service of the Commonwealth when the Department in which he was employed was transferred to the Commonwealth, any power of removing him from the Public Service was, by virtue of this section and a 67 of the Commonwealth Public Service Act 1922, vested in the Commonwealth Board of Commissioners, and not in the Governor-General Bradshaw v. Commonwealth, (1925) 36 C L.R. 585; 31 A.L. R 441 Question whether this section or s 70 of the Constitution applies in the application to South Australian transferred officers of the provisions of s 11 of the Civil Service 1st 1874 (S A.) relating to the diminution of the number of officers in a Department, discussed by High Court. Edwards v. Commonwealth, (1935) 54 C.L.R. 313; 42 A.L.R. 95.

Command of naval and military forces

68.(a) The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General(b) as the Queen's representative.

Notes of Cases.—(a) As to whether this section constitutes a sufficient authority to the Commonwealth to manufacture at the Commonwealth Clothing Factory established under s 63 of the Defence Act, uniforms for State officers, and for employees in various public utilities and institutions in the State, and for some private persons, see Attorney-General for Victoria v Commonwealth, (1935) 52 C L R 533, at pp. 555, 559, 566-7, 41 A.L.B. 246, at pp. 249, 251, 254

(b) As to the royal prerogative as to war being exercisable by the Governor-General and his Federal Ministers, and not by State Ministers see Joseph v Colonial Treasurer (NSW), (1918) 25 CLR 32, at p 51; 24 ALR. 185, at p 193

Transfer of eartain departments,

69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service(a) in each State shall become transferred to the Commonwealth (1) (b) :-

Posts, telegraphs, and telephones(c).

Naval and military defence(d):

Lighthouses, lightships, beacons, and buoys:

Quarantine.

But the Departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.()

GENERAL NOTE: —(1) The Departments of (i) Posts, telegraphs, and telephones; and (ii) Naval and military deferce, were transferred to the Coramonwealth on 1st March, 1901. See Gazette, 14th February, 1901, p. 19, and 20th February, 1901, p. 21.

Although the Commonwealth has passed laws relating to—(iii) Lighthouses, lightships, beacons, and buoys, and (iv) Quarantine, the State Departments dealing with those matters were not transferred to the Commonwealth in pursuance of this section.

Notes of Case — (a) Per Latham, CJ — The reference in this section to departments of the Public Service is a reference to the servants of the State employed in those departments R v Brislan Ex parts Williams, (1935) 54 C L R 262, at p. 274, 42 A.L R. 45, at p. 49.

- (b) Held by the Full Court of the Supreme Court of New South Wales (Owen and G. B. Simpson, JJ., Stephen, J dissenting) that, notwithstanding the transfer of post offices to the Commonwealth in pursuance of this section, the Postage Act of the State still continued in force within the area of the post offices and a person who stoke a letter in such a post office might be indicated under that Act and tried before a State Court R. r. Bamford, (1901) 1 S.R. N.S.W. 337
- (c) As to the department of posts, telegraphs and telephones being a governmental service, and not commercial, see Murcon's Wireless Telegraph Co Lid v Commonwealth (No 2), (1913) 16 C.L. R 178, at p 207, 19 A L R 129, at p 140
- (d) As to whether, in view of the transfer to the Commonwealth under this section of the Department of Naval and Mintary Defence, the Commonwealth can so far dissociate itself from the administration of that department as to say any of its functions are not functions of the Commonwealth, but of some person in his indiv, dual capacity, entirely independent of the Commonwealth, see Zacharassen v. Commonwealth, (1917) 24 C.L.R. 160, at p. 179; 24 A.L.R. 81, at p. 82.

 At to the royal percogative as to war being exercisable by the Governor-General and his Federal Ministers (not by the State Ministers) see Joseph v. Colonial Treasurer (N.S.W.), (1918) 25 C.L.R. 82, at p. 61; 24 A.L.R. 185, at p. 193

(c) Held by the Full Court of the Supreme Court of New South Wales that after the transfer of the Department of Customs to the Commonwealth under this section, the Full Court had not jurisdiction to issue a mandamus to the Collector of Customs to compel him to perform a duty which he owed to the Commonwealth Government Exparte Goldring, (1903) 3 S R, N S W, 260, 9 % L R, (C N) 37

Certain powers of Governors to Govern

70(a). In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony



with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council^(o), or in the authority exercising similar powers under the Commonwealth(c), as the case requires.

NOTES OF CASES.—(a) As to whether this section has the effect of empowering a manicipality by agreement to lease land to the Commonwealth, notwithstanding that the runnicipality was not so authorized by State law, see $R \vee Registrar$ of Titles (Vict), Ex parte Commonwealth, (1915) 20 C L R. 379, at pp 386, 397, 404, 21 A L R 435, at pp 437, 441, 444

(b) Held by the High Court that the discretion conferred by a 60 (n) of the Public Serice Act 1896 (N S W) as to the amount of gratuity payable to an officer of the State transferred to the Commonwealth was vested in the Governor-General in Council by virtue of this section NSW v Commonwealth, (1908) 6 CLR 214

As to the Royal prerogative as to war being exercisable by the Governor-General and his Federal Ministers (not by the State Ministers), ee Joseph v Colonial Treasurer (N.S.W.), (1918) 25 CLR 32, at pp 46, 51, 24 ALR 185, at pp 190, 193

(c) As to the Commonwealth Public Service Board of Commissioners being, under s. 67 of the Commonwealth Public Service Act 1922, the authority exercising "diallar powers under the Commonwealth" to those exercised by the Governor of South Australia under s 28 of the Civil Service Act 1874 (S A), see Bradshau v Commonwealth, (1925) 38 O L R 585, 31 A L R 441

Question whether this section or s 67 of the Constitution applies in the application to South Australian transferred officers of the provisions of s 14 of the Civil Service Act 1874 (S A) relating to the diminution of the number of officers in a Department, discussed by the High Court Eduards v Commonwealth, (1935) 54 C L R 313, 42 A L R 95

CHAPTER III.—THE JUDICATURE.

71.(a) The judicial power(b) of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts(o) as the Parliament creates(1), and in such other courts as it invests with federal jurisdiction(d). The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes(*).

GENERAL NOTES -(1) The other Federal Courts created by the Parhament, up to the date of the preparation of this volume, are:-

(i) The Commonwealth Court of Conciliation and Arbitration, created by the Commonwealth Conciliation and Arbitration 1ct 1904-1930, (ii) The Federal Bankruptcy Court, created by the Bankruptcy Act 1924-1930, and (iii) The Supreme Court of the Australian Capital Territory, created by the Scat of Government Court Act 1928

Supreme Court Act 1933.

(1) By the Judiciary Act 1906, the Parliament increased the number of other Justues of the High Court from two to four, and, by the Judiciary Act 1912, from four to six By the Judiciary Act 1933 the number was reduced to five.

Notes of Cases —(a) Per Griffith, C.J.; The provisions of this section are complete and exhaustive and there cannot be a third class of courts which are neither Federal Courts nor State Courts invested with federal purisdiction. New South Wales v. Commonneadth, (1915) 20 C.L.R. 54, at p. 62; (see also pp. 89, 90, 108-9); 21 A.L.B. 128, at p. 133, (see also pp. 143, 144, 151)

Held by the High Court that judicial power can only be vested in the Courts mentioned in this section Waterside Workers' Federation of Australia v. Alexander, (1918) 25 C. R. 434, 24 A. L. R. 341

Per Isaacs and Rich, JJ; This section requires judicial functions to be vested in Courts strictly so called. Waterside Workers' Federation of Australia v Gilchrist, Watt and Sanderson Ltd., (1924) 34 C.I.R. 482, at pp. 515, 543; 36 A.I.R. 462, at pp. 423, 428

(b) Per Griffith, C I, and Barton, J · The judicial power referred to in this section includes appellate as well as original jurisdiction — 1h Fick v. Lehmert, (1905) 2 C L R 593, at pp 597, 602-4, 611-4, 11 A:L R 306, at pp 308-9, 311-3

Held by the High Court that an inquiry by the Comptroller-General of Customs in pursuance of the powers conferred upon him by the Australian Industries Presentation 1ct 1896-1907, 158, is not an exercise of the judical power of the Commonwealth Hiddart Purker and Co Pty LLI v Moorehead, (1909) 8 C L.R. 330, 15 A.L R. 241

Nature of judicial power discussed by High Court Huadart Parker and Co Pty Ltd v Moorehead, (1909) 8 C L.R. 330, at pp 355-7, 377-81, 381-5, 387; 15 A.L R 241, at pp 249-50, 258-62

Per O'Connor, J., The judicial power which this section declares shall be vested in the High Court is the supreme judicial power of the Commonwealth and it must necessarily include the jower to keep interior Courts of the federal judicial system from exceeding their jurisdiction. R v Commonwealth Court of Conciliation and Arbitration, Exparte Whubrow & Co., (1910) 11 C.R., 1, at p. 41:16 A L.R.

CHAPTER III JUDICATURE.

Judicial power and Courts

Held by the High Court (Grifith, CJ, and Barton, Isaacs, Powers and Rich, JJ, Higgins, J., doubting) that the power conferred on the Commonwealth Court of Conciliation and Arbitration by the Commonwealth Conciliation and Arbitration Act 1904-1915 to enforce awards made by it is part of "the judicial power of the Commonwealth" within the meaning of this section, and can only be vested in the Courts mentioned in this section. Waterside Workers' Federation of Australia v. Alexander, (1918) 25 C.L.R. 434, 24 A.L.R. 341

Held by Barton, Isaacs, Powers and Rich, JJ, that, inasmuch as by s. 12 (1) of the Commonwealth Conciliation and Arbitration and Arbitration Art 1904-1915 the President of the Commonwealth Court of Conciliation and Arbitration read with this section, and the provisions conterning upon the Court power to enforce its awards are therefore invalid. Ibid

Per Grifith, CJ, (dissenting) The assignment of a Justice of the High Court to discharge the functions of the President is valid, and he may both make awards and impose penalties. Ibid.

Held by the High Court that the provision in s. 16 (2) of the Income Tax Assessment Act 1915-1918, —which provides that "where in the opinion of the Commissioner, a company has not in any year distributed to its members or shareholders a reasonable proportion of its taxable income, the taxable income of the company shall be deemed to have been distributed to the members or shareholders a reasonable proportion to their interests in the paid-up capital of the company, if the Commissioner is satisfied that the total tax payable on it a. distributed income is greater than the tax payable on it by the company "—does not purpoit to confer "judicial power" upon the Commissioner of Taxation Cornell v. Deputy Federal Commissioner of Taxation (South Australia), (1920) 29 C.L. R. 39; 26 A.L. R. 295. As to whether any unnetions not within "the judicial power of the Commonwealth (as he can be conferred on the High Court, see In re the Judiciary and Namyation Acts, (1921) 29 C.L. R.

4258-60

Held by the High Court that the provision in s. 48 of the Customs Act 1901-1916—providing that "whenever any such customs security is just in sult by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated hability against the persons appearing to have executed the same unless the defendants small prove compliance with the condition or that the security was not executed by them or release or satisfaction "—is not an exercise of the judgmal power of the Commonwealth The Commonwealth V Melbourne Harbour Trust Commissioners, (1922) 31 C L.R. 1;

executed the same unless the defendants shall prove compliance with the condition of that the security was not executed by them or release or satisfaction"—Is not an exercise of the judicial power of the Commonwealth The Commonwealth v Melbourne Harbour Trust Commissioners, (1922) 31 C L.R. 1; 28 A L R. 325

Held by the eHigh Court that s & A of the Immigration Act 1901–1920—which provides for persons of certain classes, who were not born in Australia, neing summoned before a Board to show cause why they should not be deported from the Commonwealth, and for the Roard making to the Minister are compitation for their deportation—does not purport to vest in the Board portion of the Quincial power of the Commonwealth R v Macfarlane, Ex parts O'Flanagan and O'Rélity, (1923) 32 C L R. 518, at pp. 530, 530-7, 560-3, 577, 583, 29 A L R. 353, at pp. 359, 361, 373-4, 378, 380

Held by the High Court that the powers which the Income Tax Assessment Act 1922–1923 by 8s. 44, 50 and 51 purports to confer upon a Board of Appeal created under s 41 of the Act are part of the pudrial power of the Commonwealth which under this section can only be vested in Courts. The Board of Appeal not beling a Court, the conferring of those powers on the Board of Appeal is therefore ultra vires the Parlianient British Imperial Oil Co. Lid. v. Federal Commissioner of Taxation, (1925) 35 C L.R. 422; 31 A L R. 129

As to the invalidity of s. 21 (5) of the Income Tax Assessment Act 1922—which provides for the reference of a case to a Board of Appeal—see Federal Commissioner of Taxation v Australian Tesselated Tide Co. Prin Lid. (1925) 36 C L R. 119, at pp. 122, 124-5, 128, 129, 31 A L R. 218, at pp. 219-21.

Held by the High Court that s 60 of the Commonwealth Conduction and Arbitration del 1904–1921—which gives the 'commonwealth Court of Conciliation and Arbitration power, in certain events, to directive the High Court that s 60 of the Commonwealth Court of the pudicial power of the Commonwealth and the Board to recommend such a course—is an exerc 1 A T I) 113

As to whether a Marine Court constituted under Part IX of the Nangation Act 1912-1920 exercises "the judicial power of the Commonwealth" within the meaning of this section, see R. v. Turner, Exparte Marine Board of Hobart; Tasmama v. Commonwealth, (1927) 39 C.L.R. 411, at pp. 441-2, 449-50; 33 A.I.R. 174, at pp. 184, 187

As to the direct vesting by the Constitution itself of judicial power in Courts, see Le Mesurier v. Connor, (1929) 42 t' L.R. 481, at pp. 493-500, 514-6; 36 A.L.R. 41, at pp. 46-7, 52-3, 1 A.B.C. 97, at pp. 115-6, 130-1

As to the judicial power being exercisable by judges alone, and not also by the Court officers, see Le Mesurier v Connor, (1929) 42 C.L.R. 481, at pp. 511-2, 522-3, 524-5, 38 A.L.R. 41, at pp. 51-2, 55-7; 1 A.B ('97, at pp. 127, 137-8, 139-40.

Meaning of "judicial power" discussed by Privy Council. Shell Company of Australia Ltd. v Federal Commussioner of Taxatom, 1931 A.C. 275, at p. 295, 44 C.L.R. 530, at p. 542, 37 A.L.R. 1, at p. 6; 1 A.T.D. 113, at p. 123.



(c) Held by the High Court that the Supreme Court of the Northern Territory is not a federal Court within the meaning of this section. Porter v. R., Exporte Fee, (1926) 37 C L R. 432, 32 A L R. 144 (d) As to the meaning of "federal jurisdiction," see R. v. Bamford, (1901) 1 S R., N S W., 337, at p. 347, Ah Yick v. Lehmeit, (1905) 2 C L R. 593, at p. 603, 11 A L R. 306, at p. 308, Baxter v. Commissioners of Tavation (N S W), (1907) 4 C L R. 1087, at pp. 1113, 1136-9, 1141-5, 13 A L R. 313, at pp. 324, 333-v. Lorenzo v. Carrey (1921) 29 C L R. 243, at p. 252, 27 A L R. 225, at p. 228, Commonwealth V. Limerick Neamiship Co. Ltd and Kithian, (1924) 35 C L R. 69, 31 A L R. 153, Expante Walsh, and Johnson. In re Vates, (1925) 37 C L R. 36, at p. 129, 32 A L R. 46, at p. 77, Le Mesurier v. Compor, (1929) 42 C L R. 481, at pp. 516, 523, 36 A L R. 41, at pp. 53, 56, 1 A B C 97, at pp. 131, 138. As to appeals from the Supreme Court of a State in the exercise of federal jurisdiction, and as to the question whether a particular decision is the exercise of State of Federal jurisdiction, see Commonwealth v. Limerick Steumship Co. Ltd. and v. Kulman, (1924) 35 C L R. 69, at pp. 3, 107, 118, 31 A L R. 153, at pp. 156, 165, 160. (special leave to appeal from the decision of the High Court in Commonwealth v. Kulman refused by Privy Council. Kulman v. Commonwealth, (1925) 32 A L R. 1)

72.(a) The Justices of the High Court and of the other courts created by the Parliament-

appointment, tenure, and remuneration.

- (i.) Shall be appointed by the Governor-General in Council.
- (ii) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:
- (iii.) Shall receive such remuneration as the Parliament may fix(1); but the remuneration shall not be diminished during their continuance in office.

GENERAL NOTES --- (1) Salaries of Judges

By the Judiciary Act 1903-1927 the Parliament fixed the renumeration of Justices of the High Court at the sum of £3,500 per annum for the Chief Justice, and £3,000 per annum for each of the other

Justices

By the Commonwealth Concidentian and Arbitration Act 1904-1930 the Parliament fixed the remuneration of the Judges of the Commonwealth Court of Concidentian and Arbitration at the sum of £3,000 per annum for the Chief Judge, and £2,500 per annum for each of the other Judges

By the Bankruptcy Act 1924-1930 the Parliament fixed the remuneration of any Federal Bankruptcy
Judge who had been, immediately prior to his appointment in that capacity, a Judge of a Federal Court,
at the same rate of salary as that received by him as a Judge of that Federal Court

By the Judiciary Act 1903-1927, a 48A, (enacted in 1926) pensions at the rates specified in that section were provided for Justices of the High Court upon their rebrement

By the Financial Emergency Act 1931, a 22 payments of pensions under a 48A of the Judiciary 4ct 1903-1927, were reduced by 20 per cent. (Section 22 was repealed by the Financial Relief Act 1933, a 45)

By the Commonwealth Conculation and Intrinsic Act 1904-1926, a 144 (enacted in 1923) pensions at the rates specified in that section were provided for Judges of the Commonwealth Court of Conciliation and Arbitration upon their rectanguar.

By the Financial Emergency Act 1931, a 22, payments of pensions under a 14h of the Commonwealth Conciliation and Arbitration Act 1904-1926 were reduced by 20 per cent. (Section 22 was repealed by the Financial Relef 1st 1903, a 45)

By the Bankruptey Act 1924-1930, a 18C (enacted in 1930), provision was made that, in the case of the retirement of a Federal Bankruptey Judge who had been, numediately prior to his appointment in that capacity, a Judge of a Federal Court, there should be payable a pension at the same rate as that to which the Judge would have been entitled if his service as Judge of the Federal Court of Bankruptcy had been a continuace of his services as Judge of that Federal Court.

By the Financial Emergency Act 1931, a 22, payments of pensions under a 18c of the Bankruptcy Act 1924-1930 were reduced by 20 per cent. (Section 22 was repealed by the Financial Relef Act 1933, a 45)

NOTES OF CASES - (a) As to the effect of this section upon the Claim that the Inter-State Commis-

1924-1930 were reduced by 20 per cent (Section 22 was repealed by the Financial Relief Act 1933, 45)

Notes of Cases - (a) As to the effect of this section upon the claim that the Inter-State Commission constituted under < 101 of the Constitution (with the limited tenure of its members as compared with the tenure provided by s 72 for Justices of Federal Courts), is a Court within the meaning of this section, see New South Wides v. Commonwealth, (1915) 20 C.L.R. 54, at pp. 62, 72, 76, 93, 107, 108, 21

A L.R. 128, at pp. 133, 137, 138, 145, 150

Held by the High Court (Griffith, C.J., and Rarton, Isaacs, Powers and Rich, J.J.; Higgins and Gavan Duify, J.J., dissenting) that this section requires that every Justice of the High Court and every Justice (whicher called by that or any other name) or any other Court created by the Parliament shall, subject to the power of removal contained in that section, he appointed for life Watersile Workers' Federation of Australia v. Alexaules, (1918) 25 C.L.R. 431, 24 A.L.R. 341

Held by Barton, Isaacs, Powers and Rich, J.J., that, inasmuch as by s. 12 (1) of the Commonwealth Concolation and Arbitration 1st to be appointed for seven years only, that section is at variance with this section read with s. 71 of the Constitution and the provisions conferring upon the Court power to entore its awards are therefore invalid. Waterside Workers' Federation of Australia v. Alexander, (1918) 25 C.L.R. 434, 24 A.L.R. 341. 24 A L R. 341.

Per Critith, C.J. (dissenting). The assignment of a Justice of the High Court to discharge the functions of the Propriet value, and he may both make awards and impose penalties. Waterside Workers' Federation of Australia v. Remains, (1918) 25 C.L.R. 434, 24 A.L.R. 341.

As to just red appointments under this section being for life, see also British Imperial Oil Co. Ltd. v. Federal Commission of Trustion, (1923) 35 C.L.R. 422, at pp. 423, 435; 31 A.L.R. 129, at pp. 130, 122, Porte, v. R. Exterior Yee, (1926) 37 C.L.R. 432, at pp. 445-6; 32 A.L.R. 144, at p. 149, Shell Co. of Australia Life v. Fod., d. Commissioner of Trustion, 1931 A.C. 275, at pp. 298-9; 44 C.L.R. 530, at pp. 545-2; 17 4.L.R. 1, 1, 1, 1, 7, 1, A.T.D. 113, at p. 126, Federal Commissioner of Trustion v. Musro, (1921) 42 C.L.R. 133, at pp. 163, 199-201, 32 A.L.R. 39, at pp. 343, 357-8; Le Mesurier v. Connor, (1924) 42 C.L.R. 133, at pp. 36 A.L.R. 41, at p. 54, 1, A.R. C. 97, at p. 134.

As to the possible effect of this section on the validity of the establishment of Marine Courts under Part II. of the Saturation Let 1912-1920 those provisions not providing for life tenure of the members of the Courts, see R v I new, Ex parte Marine Board of Hobart Tasmansa v Commonwealth, (1927) 30 C.R. III, at pp 441-2, 144-50; 33 A.R. 172, at pp 184, 187

Held by the Pray Council that the tenure of office of members of the Board of Review created under s if of the Income Tax Assessment Act 1922-1925 does not conflict with the requirements of this section reals not to tenure of office of members of a Court created by the Commonwealth Parliament, Shell Co of Arstralia Lik' v Federal Commissioner of Taxation, 1931 AC 275, 44 C L R 530; 37 A L R 1, I A T D 112

Appellate jurisdiction of High Court.

73(a). The High Court shall have jurisdiction, with such exceptions' and subject to such regulations as the Parliament prescribes, to hear and determine appeals (c) from all judgments (d), decrees, orders (e). and semmees -

North or CASIS—(a) As to whether this section empowers the High Court to entertain appeals from judgments pronounced before the passing of the Judicary Act, see Hannah v. Dalgarro, (1903) 1 (b. 1. 2. 4. 4. 1. R. (C.A.) S.

Held by the High Court that it has no jurisdiction to entertain an appeal from a decision of the Supreme Court of a State pronounced before the establishment of the Commonwealth. Expans. Matthews, (1904) 2 C b R. 33

Supreme Court of a Stat pronounced before the extablishment of the Commonwealth Exparts Matthews, (1904) 2 C L R 33

(b) Held by McMil an, J. (Supreme Court of Western Australia) that under this section the Pailiament of the Councilland and J. (Supreme Court of Western Australia) that under this section the Pailiament of the Councilland and the provision contained in the High Court Procedure Act 1908, Schedule, Part II, Section IV, Fule 9, under which when notice of appeal is given without the leave of the High Court in a core in which an appeal cannot be prought as of right, the Court from which the appeal is proposed to be 'gought, or a Judge thereof, may set aside the notice Mulne V James, (1910) 12 W A L R 11, at p. 113

Held by the High Court (Isaacs, Higgins, Gavan Duffy, Powers and Rich, JJ., Griffith, CJ., and Barton, J. dissenting) that the provision contained in s. 2144 (4) of the Commonwealth Convitation and Arbitration Act 1904–1918 that the decision of the Justice of the High Court under that section is not to be subject to an appeal of the High Court in its appellate jurisdictions an exception from that jurisdiction within the meaning of s. 75 of the Constitution, and that the whole section is a valid exercise of the legilative power of the Parliament of the Commonwealth Federated Engineeries, and Firemer's Association of Anatholisms of Colonial Sugar Refining Co. Ltd., (1916) 22 C L B. 103, 22 A L R 3.28

Held by the High Court (Griffith, CJ., Barton, Isaacs, Higgins and Powers, JJ.; Rich, J., doubting) that the decision of a County Court shall be final unless within a prescribed time either party appeals to the High Court of the Supreme Court of the State is an exception from the appellate jurisdiction of the High Court of the Supreme Court of the State is an exception from the appellate jurisdiction of the High Court of the Supreme Court of the State is an exception from the appellate jurisdiction of the Picture of the High Court of the State is an exception from the appellate jurisdiction of t

Per Higgins, J.: No "exceptions" or "regulations" within the meaning of this section can be recognized to the steep made by the Rutament - Wall v. R., Exparte King Won and Wah On, (No. 1), (192,) 3) of L.R. 245, at p. 262; 33 A.L.R. 190, at p. 107.

recognized of the state of the Randment of all v n. R. La parte Rong non una run on, (Mn. 1), (192-19). I. R. 243, at p. 262; 33.4 k. R. 190, at p. 107.

(c) Per Prior L. J. T. Condy by virtue of this section that appellate jurisdiction exists in the High Court over the original plushes to the Court in the matters specified in so 75 and 76. Ah Yick v. Refiner, 1990. L. R. 534, at p. 12, 11.4 k. R. 358 at p. 350. The powers main do the High Court in this section are those of a general Court of Append but the Court of Leror Long v. Wallach, (1915), 20 C. L. R. 299, at p. 307; 21.4 k. R. 353, at p. 356, 1946 v. R. 246; 28.4 k. R. 168 d. Wallach, (1915), 20 C. L. R. 299, at p. 307; 21.4 k. R. 353, at p. 356, 1946 v. R. 246; 28.4 k. R. 168

Ring, (1922) 30 C. L. R. 246; 28.4 k. R. 168

Ring, (1922) 30 C. L. R. 246; 28.4 k. R. 168

Ring, (1922) 30 C. L. R. 246; 28.4 k. R. 168

Ring, (1922) 30 C. L. R. 246; 28.4 k. R. 168

Ring, (1922) 30 C. L. R. 241, at p. 250

As to the invaledity of s. 51 of the Income Tax Assessment Act 1922–1923—which provides inter aha that an appead has to the High Court in its appellate jurisdiction from orders made by a Board of Appeal (which is not a Court) over Entlish Imperial Oil Co. Lid. v. Federal Commissioner of Taxation, (1925) 35 c. L. R. 422; 31.4 k. R. 129

As to whether the appellate power of the High Court is confined to appellate power within the seaming of this section or whether it may be extended by Parliament to revision of administrative decisions, see Federal Commissioner of Taxation v. Munro, Entlish Imperial Oil Co. Lid. v. Federal Commissioner of Taxation, (1925) 38 C. L. R. 339, at p. 347.



Held by the High Court that, in the case of an appeal to the High Court from a conviction, the question under the appellate power is whether the conviction was, on the evidence before the sower Court, in accordance with the law as then existing Victorian Stevedaring and General Contracting Co Pty. Ltd. and Meakes v. Degnam, (1901) 46 C. L. R. 73, 33 A. L. R. 22.

(d) Meaning of "judgments" discussed Musgrore v. Mellonald, (1995) 3 C L R 132, 12 A L R 19
Held by the High Court (Griffith, O J, Gavaa Duffy and Each, J I that attrough under this section
the High Court has jurisdiction to entertain an appeal from a judgment discharant ar a cut ed person
the section does not confer jurisdiction on the High Court to set wide a veryfect of "not guilty" Held
also that a direction by a Judge to a jury to find a veralet of "not guilty" is not a "judgment" from
which under this section an appeal lies to the High Court R v Snow (5.5) 20 C L R 315, 21 A L B

382

Held by the High Court that an order of the First Court of the Supreme Court of Queen land declar my that the appellant—who had me-ented a commission and real asked to be sworn in as a Judge of the Supreme Court—was not entitled to be sworn in as, and was not eligible to be appointed, a Judge of the Supreme Court, was not a judgment within the meaning of this section. The re McCurtes, (1918) 24

C.L.R. 345

As to whether an appeal has to the High Court under s. 21 of the Supreme Court Ordinance 1911-1922 of the Northern Territory—which in terms is small to the section—from a decision on the supreme Court ordering the discherice of certain persons from custors on the ground that they are not immigrants see Wally R. L. parte Anny Wom and had Om. (An 1), (1927) 39 C.L.R. 215, 33 A.L.R. 100

Held by the High Court that a decision of the supreme Court of New South Wales, given after the making of an award by the Worker's Compensator Courtmission under the Wonker's Compensation Let 1926 (N.S.W.) is not an advisory or consultative opinion but a fine determination of the rights of the particle in the matter, and that an appeal will be therefrom to the High Court—Smith y Mann, (1932) 47 C.L.R. 426, 38 A.L.R. 397

(e) Held by the High Court that an older of the Supreme court of a System American.

47 C.L.R. 426, 38 A.L.R. 397

(e) Held by the High Court trut an older of the Supreme court of a State re admitting to practice a solictor who had been struck off the roll for insconduct is an order from which the High Court has under this section jurisdiction to entertain an appeal. **Incorporated Law Institute of N.S.W. v. Measure (1909) 9 C.L.R. 655, 16 A.L.R. 401

As to whether an award of the Commonwealth Court of the lettern and Arbitiation is an "order" within the meaning of this section, see **Sutternial** **Note lettern and Arbitiation is an "order" within the meaning of this section, see **Sutternial** **Note lettern and Arbitiation is an "order" within the meaning of this section, 348, 35).

Head by the High Court (Isaacs, Rich and Starke, J.J., Knox, C.J., and flavan Duffe, J., discenting that certain orders of the Full Court of the Supreme Court of New South Wales, granting leave to the plaintiff to appeal to the Privy Council were an everying disc individual points of the Commonwealth, and were therefore "orders" within the meaning of this section, now which an appeal would be to the High Court Commonwealth **Lineary(*Neuman) Co. Lift and **Lineary(*Neuman) Co. Lift and **Lineary(*Neuman) Co. Lift and **Lineary(*Neuman) Co. Lift and **Lineary(**Lineary

(1.) Of any Justice or Justices exercising the original jurisdiction of the High Court:

(ii.) Of any other federal court(a), or court exercising federal jurisdiction(b); or of the Supreme Court of any State(c), or of any other court of any State(d) from which at the establishment of the Commonwealth an appeal lies(e) to the Queen in Council:

Notes of Cases.—(a) As to whether the Court constituted of a Special Magistrate of the Northern Territory is a Federal Court within the meaning of this section, see Mitchell v. Burker, (1918) 24 CLR 365; 24 ALR 64.

In considering whether a Court of a Territory is a "Federal Court" within the meaning of this section, guaere whether a distinction may be drawn between Peritories which have, and those which have not, formed part of the Commonwealth Mitchell v Burker, (1918) 24 CLR 365, at p 367, 24 ALR 64, at p 65.

Held by the High Court that it has jurisdiction to entertain an appeal from the Central Court of the Territory of New Guinea, that being a "Federal Court" within the meaning of placiating (1) of this section Mainka v Custodian of Expropriated Property, (1924) 34 CLR 297, 31 ALR 1 But see Porter v. R. Ex parts Yee, 1926) 37 CLR 422, at pp. 442-3, 450, 32 ALR 144, at pp. 148, 150.

Held by the High Court that the Supreme Court of the Northern Territory is not a "Length Court" within the meaning of placiating (n) of this section Parter v. R. Ex parts Yee, (1926) 37 CLR 432, 32 ALR 144.

within the meaning of plactum (n) of this section. Porter V. R., Lx parte 1ec, (1920) 37 C. L. i. 132, 32 A.L. R. 144.

Leave to appeal from the Central Court of the Territory of New Gumea rescinded by High Court, the Mining Ordinaire 1922-1925 (N. G.) having provided that all orders of the Cintral Court inversing et varying decisions of the Warden's Court shall be final and conclusive. Question as to whether the Central Court is a "Federal Court" within the meaning of this paragraph, discussed by High Court. File Creak Pty. Ltd. v. Symes, (1929) 43 C. L. R. 53.

(b) Held by the High Court that this section imposes no restriction as to amount upon appeals from judgments of the Supreme Courts of the States in the exercise of Federal purishetion. Hannel v. Dalgarno, (1902) 1 C. L. R. 1, 9. A. L. R. (C. N.) 85.

Held by the High Court that a New South Wales District Court, in deciding whether a Federal officer is liable to pay State income tax, the officer having claimed that he is not liable on the ground that the exercising Federal introduction and that an appeal from such decision has to the High Court. Baxter v. Commissioners of Taxation (N.S.W.), (1907) 4 C. L. R. 1087; 13 A.L. R. 313.

Held by the High Court that an appeal to the High Court from a decision of a Court of Petty Session of Victoria exercising Federal jurisdiction in the case of a civil debt recoverable summarily when the sum involved does not exceed £5 may, under the Rules of the High Court, be brought by way of order to

review, notwithstanding that, by s 21 of the Justices Ait 1904 (Vict), in such a case the granting of an order (o review is prohibited. Prentice v. Amalgamated Mining Employees' Association of Victoria and Tasmana, (1912) 15 C. L. R. 235, 18 A. L. R. 343

Held by the High Court (Barton, Isaaes, Higgins and Rich, JJ., Gavan Duffy, J., dissenting), that where a State Court of summary jurisdiction not consisting of one of the magistrates specified in s. 30 (2) (d) of the Judiciary Act. 1903-1915 entertains a matter which is one of Federal jurisdiction, it is exercising, though unlawfully, Federal jurisdiction within the meaning of this section, and an appeal from its decision will be to the High Court unders. 39 aforesaid. Troy v. Wrigglesworth, (1919) 28 C.L. R. 305., 25 A. L. R. 196

Held by the High Court, which merely regulates the procedure by which appeals are brought; and therefore, on an appeal from a Court of Petty Sessions of Victoria, brought by way of order to review pursuant to rule 1 of section 1V of Part II of the Rules of the High Court, the duty of the High Court is to give judgment according to its own opinion in the same manner as on appeals from a Judge of the Supreme Court sitting without a jury. Edil v. Steuart, (1920) 28 C.L. R. 419, 27 A.I. R. 1

As to the meaning of the words. "Federal jurisdiction." in this section see Lorenzo v. Carey, (1921) 29 C.L. R. 243, at p. 252; 27 A.L. R. 225, at p. 228

Question of Court having two jurisdictions, State and Federal, at the same time, discussed by High Court. Lorenzo v. Carey, (1921) 29 C.L. R. 243, at p. 252; 27 A.L. R. 243, at p. 252, 27 A.L. R. 225, at p. 228

Held by the High Court that it has jurisdiction to entertain an appeal from a decision of a Court of Petty Sessions convicting an employer of an offence in that he paid an employee at the minimum wage fixed by an award of the Commonwealth Court of Conciliation and Arbitation by which he was bound, and not at a higher rate fixed by a State Wages Board, the decision appealed from a liminum

Meaning of "Federal pursidiction" discussed Le Mesurier v Connor, (1929) 42 C. R. 481, at p 516; 36 A. L. R. 41, at p 53, 1. A. B. C. 97, at p 131

Sie, 36 A. L. R. 41, at p 53, 1. A. B. C. 97, at p 131

(In Health of the High Court that an order made by a Judge of the Supreme Court atking in Chambers in the exercise of the jurisdiction conferred by a 107 of the Justices Act 1902 (N. S. W.), is a judgment of the Supreme Court within an appeal will be to the High Court under this section. Saunders v Members of the Supreme Court on an appeal by way of special case, notwithstanding that s 106 of the Justices Act 1902 (N. S. W.) provides that on such appeals the judgment of the Supreme Court on an appeal by way of special case, notwithstanding that s 106 of the "Intel and conclusive". Interseald v Bartley, (1904) 1 C. R. 497, 10 A. L. R. (C. N.) 65.

Held by the High Court that the words "the Supreme Court of any State" in this section are used to designate that Court which at the time of the establishment of the Commonwealth was in any particular State known by the name of "the Supreme Court" of that State Parkin and Comper V James, (1905) 2 C. L.R. 315, 11 A.J. R. 142

Held, therefore, that subject to the conditions mentioned in this section, an appeal lies to the High Court from every judgment, &c., which according to the law of a particular State, is a judgment, &c., of the Supreme Court of that State Parkin and Comper V James, (1905) 2 C. L.R. 315, 11 A. L. R. 122

Held, therefore, that subject to the conditions mentioned in this section, an appeal lies to the High Court from every judgment, &c., which according to the law of a particular State, is a judgment, &c., of the Supreme Court of that State Parkin and Comper V James, (1905) 2 C. L. R. 315, 11 A. L. R. 142

Held, by the High Court that an appeal does not lie to the High Court from a vertice of a jury, or from a judgment of the Supreme Court of a State founded upon a special vertice of a jury, but the verdice itself cannot be impeached upon a special ve



Held by the High Court that the Court of Industrial Arbitration of the State of Queensland, constituted by the Industrial Arbitration Act of 1916 (Q), is not the Supreme Court of the State within the meaning of this section and therefore no appeal hes from it to the High Court of the State within the Meaning of this section and therefore no appeal hes from it to the High Court of Mutual Life and Citizens' Assurance Co Lid v. Thiel, (1919) 27 C L R 187

Held by the High Court that the Cruminal Appeal Act 1912 (N S W) does not create a new Court, but merely directs that the Supreme Court, constituted as therein prescribed, shall act as the Court of Criminal Appeal, and that therefore an appeal lies from the Court of Criminal Appeal to the High Court under this paragraph Stevart v The King, (1921) 29 C L R 234, 27 A L R 173

Per Isaacs, J This section draws a very clear distinction between the Supreme Court as the judicial organ of the State, and a State Court as a judicial organ of the Commonwealth v Kreghinger and Fernau Lid and v Bardsley, (1926) 37 C L R 393, at p 417, 1926 V L R 331, at p. 352; 32 A L R 161, at p 178

Per Isaacs, J An appeal from a State Court evercising State jurisdiction to the High Court is not a rehearing, otherwise the High Court would be invested with original jurisdiction as to State judicial power Werribee Council v Kerr, (1928) 42 C L R 1, at p 20

(d) Application for special leave to appeal to the High Court from a decision of the Court of Mines

(d) Application for special leave to appeal to the High Court from a decision of the Court of Mines refused by the High Court on the ground that the applicants had a right of appeal to the Supreme Court of the State, and thence to the High Court

**Ramarooka Gold Mining Company No Liability v. Rerr, (1908) 6 C L.R. 255

(e) Question as to whether the words "an appeal hes" include appeals by special leave, discussed by High Court Parkin and Couper v James, (1905) 2 C L R 315, 11 Å L.R 142, Kamarooka Gold Mining ("ompany No Inability v Kerr, (1908) 6 C L R 255

(iii.) Of the Inter-State Commission, but as to questions of law only(a):

Notes of Cases —(a) As to whether this provision as to appeals lying from the Inter-State Commission to the High Court upon questions of law puts the Commission on the same footing as a Court, see New South Wales v Commonwealth, (1915) 20 C L R 54, at pp 61-2, 73-5, 83, 87-8, 103-4, 108, 110, 21 A L R. 128, at pp. 133, 137-8, 141, 143, 149, 151-2

and the judgment of the High Court in all such cases shall be final and conclusive. (a)

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter(b) in which at the establishment of the Commonwealth an appeal lies (c) from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides(1), the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

General Notes—(*) By the Judiciary Act 1903-1933, s 35, the Parliament has otherwise provided for appeals from the Supreme Courts of the several States to the High Court.

Notes of Cases—(a) As to whether the High Court should grant a stay of execution of a judgment delivered by it on an appeal from the Supreme Court merely because the Privy Council may grant leave to appeal from the decision of the High Court, see McLaughlin v Daily Telegraph Newspaper Co Ltd & (No 2), (1904) 1 C L R 243, at p. 283, 10 A.L.R. (CN) 32 at pp 33-4.

As to whether the opinion pronounced by the High Court on a case stated by the Commonwealth Court of Conciliation and Arbitration for the opinion of the High Court is merely consiliative or is judicial, see Federated Enginedrivers' and Firemen's Association of Australia v Biolen Hill Ply Co Ltd. 1913) 16 C L R 254, at p 257; 19 A L R 177, at p 179

As to whether a stay of proceedings on a judgment of the High Court pending an application to the Privy Council for special leave to appeal should be granted on the application of the defendant, in a case in which if the stay is not granted the appeal would be rendered nugatory, and if the stay is simply (granted the whole benefit of the action might be lost to the plantifis, see Marconi's Wireless Telegraph Co. Ltd v Commonwealth (No 3), (1913) 16 C L R 384

A obtained a judgment of the High Court declaring him absolutely entitled to certain land in the possession of B. Upon A bringing in the Supreme Court an action of ejectment, B was granted a stay on the ground that the decision of the High Court was wrong and that he was taking steps to apply to the Privy Council for special leave to appeal to the Privy Council, the High Court discharged the stay, holding that its decision in the previous case was under this section final and conclusive except so far as special leave might be granted under s. 7

(b) Held by the High Court (Knox, CJ, Gavan Duify, Powers, Rich and Starke, JJ.; Higgins, J, dissenting) that the word "matter" in this section involves some right, privilege or protection given by law, or the prevention, redress or punishment of some act inhibited by law. In re the Judiciary and Navigation Acts, (1921) 29 ULR 257, 27 ALR. 193. See also In reJudiciary and Navigation Acts, (1923) 32 CLR 455.

Appeal to Queen in Council

74(a) (b). No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question(c), howsoever arising, as to the limits inter se of the Constitutional powers of the Commonwealth and those of any State or States(d), or as to the limits inter se of the Constitutional powers of any two or more States, unless the High Court(e) shall certify that the question is one which ought to be determined by Her Majesty in Council.(1)

The High Court may so certify if satisfied that for any special reason(f) the certificate should be granted(g), and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty-in Council(h). The Parliament may make laws limiting the matters (1) in which such leave may be asked, (2) but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

GENERAL Notes --(1) For list of cases in which applications were granted or refused by the High Court under this section, or questions were raised by or before the Privy Council as to whether certificates (not having been granted by the High Court) were necessary under this section see note (b) of Netes of Cases hereunder

(*) Up to the date of the preparation of this volume, no laws limiting the matters in which leave may be asked, had been made in pursuance of this paragraph.

Notes of Cases—(a) As to whether this section authorizes the Parliament to take away the right of appeal from the Supreme Court of a State to the Privy Council, given by the Order in Council of 9th June, 1880, see Webb v. Outrum 1907 Ac 181; 4 C LR 356, 13 A.LR. (CN) 1.

Fer Isaacs and Rich, JJ. By this section the Constitution places the whole fate of the State Constitutions, where they compete with the Federal Constitution places the whole fate of the State Constitutions, where they compete with the Federal Constitution in the hands of the High Court, that (ourt's decision being final unless it grants a certificate Waterview Workers' Federation of Australia v. J. W. Alexander Ltd., (1918) 25 C.L. R. 434, at p. 469; 24 A.L. R. 341.

As to whether this section applies to a decision of the High Court in its original jurisdiction as well as to one in its appellate jurisdiction, see In re the Judiciary and Navigation Acts, (1923) 32 C.L.R. 455.

Held by the High Court that, in view or the provisions of s. 73 and this section, the Orders in Council relating to the granting of leave to appeal from decisions of the Supreme Court of a State to the Privy Council do not apply to cases in which the Supreme Court was exercising Federal jurisdiction. Commonwealth v. Limerica Steamshap Co. Lid and v. Kudman, (1924) 35 C.L. R. 69, at pp. 94, 107, 169, 115, 117, 31 A.L. R. 153, at pp. 160, 165-6, 168-9 (Special leave to appeal from the decision of the High Court in Commonwealth v. Kulman refused by Privy Council. Kulman v. Commonwealth, (1925) 32 A.L. R. 1)

Discussion as to the special position of the High Court under this section as the final arbiter in constitutional questions. Parriev McFarlane, (1925) 36 C.L. R. 170, at p. 196; 31 A.L. R. 365, at p. 375. Scheme by which Parlament has provided, in the Judiciary Act 1903-1920, that all cases falling within the first paragraph of this section shall be determined by the High Court, discussed by High Court Exparte Walsh and Johnson, In re Yules, (1925) 37 C.L. 8, 36, at p. 74

(b) The High Court has granted a certificate under this section in the following case, the certificate being a limited one —Colonial Sugar Refining Co. Ltd. v. Attorney-General of the Commonwealth, (1912) 15 C.L.R. 182, at pp. 233-4, 18 A.L.R. 556, at p. 557.

C.l. R 182, at pp. 233-4, 18 A L.R. 556, at p. 557.

The High Court has refused to grant certificates under this section in the following cases:—

Murray & Co. v Collector of Customs, (1903) 1 C.L.R. 25, at p. 38. (Case did not fall within the section)

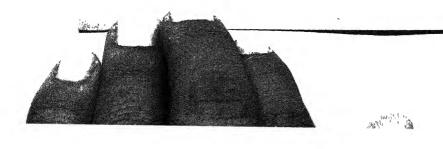
Municipal Council of Sydney v Commonwealth, (1904) 1 C.L.R. 208, at p. 242; 10 A.L.R. (C.N.)

29 (No "special reason" shown—there not appearing in this case any reasonable ground for disputing the correctness of the judgment of the High Court)

Deakin v. Webb. June v. Webb. (1904) 1 C.L.R. 585, at pp. 619-31; 10 A.L.R. 258. (No "special reason" shown. For reasons which were advanced in this case, see note on this case in paragraph (f), infru, p. 68)

Bazter v. Commissioners of Taration (N.S.W.), (1907) 4 C.L.R. 1087, at p. 1177; 13 A.L.R. .348, at p. 352. (No "special reasons" shown. For reasons advanced see note on the case of Flint v. Webb in paragraph (f), infru, p. 68). Special leave to appeal subsequently refused by Privy Council. Commissioners of Taration (N.S.W.) v. Bazter, 1908 A.C. 244; 5 C.L.R. 308. Flint v. Webb (1907) 4 C.L.R. 1178, 13 A.L.R. 348. (No "special reasons" shown. For reasons advanced, see note on this case in paragraph (f), infru, p. 68). Special leave to appeal subsequently refused by Privy Council Webb v. Firut, 1908 A.C. 214; 5 C.L.R. 398.

Jones v. Commonwealth Court of Concelection and Arbitration. (Application for certificate refused by High Court without assigning any reason. R. v. Commonwealth Court of Concelection and Arbitration and the Australian Builders' Labourers' Federation: Ex parte Jones, (1914) 21



ALR 13) Special leave to appeal subsequently refused by Privy Council Jones v Commonwealth Court of Conciliation and Arbitistion, 1917 AC 325, 24 CLR 396, 23

Commonwealth Court of Convilation and Arbitration, 1917 A C 12e, 24 C L R 396, 23

A R 2 R 387

Amalgamated Society of Engineers Adeluide Steamship Co. Ltd., (1921) 29 C L R 406 (Grounds for refusal not stated. Special leave to appeal subsequently refused by Privy Council Minister for Trading Concerns for the State of Western Australia V. Imalgamated Society of Engineers, 1923 A C 170)

Ex parts Nelson, (1929) 42 C L R 258, 35 A L R 177 (183d by Knox, C J, Isaacs, Gavan Duffy and Starke, JJ, that no special reasons had been nown. Held by Rich and Dixon, JJ (contra by Isaacs and Starke, JJ), that the decision to the Court unders 92 did not involve an interse question)

New South Wales V. Commonwealth (No. 2), (1932) 46 C R. 235. (Certificate refused by Gavan Duffy, C J, Rich, Starke, Dixon, and McDernis, J, Evatt, J, dissenting, the majority holding that the question in issue required an innicidate and a final decision)

Cox V. Journeaux, (1934) 52 C L.R. 282 (In this case the Court decided not to deal with the applict ton for a certificate of heave to appeal to the Privy Couriel)

In the following cases—in which certificates had not been granted by the High Court—questions were raised as to the necessity for a certificate of the High Court under this section, and the Privy Council dealt with the appeal in the following manner —

Commessioners of Taxation (N S W.) v. Baxter, and Webb v. Flint, 1908 A.C. 214; 5 C L R. 398

Commensioners of Taxation (N S W.) v Baxter, and Webb v Flint, 1908 A.C 214; 5 C L R. 398 (Petitions for special leave to appeal refused, the amount at stake being inconsiderable, and the contriversy having been closed, an Act of the Parliament of the Commonwealth having treen passed expressly empowering the States to impose taxation of the kind in question.

Attorney-General for New South Wales v. Collector of Customs for New South Wales, 1909 A.C. 345
(Petition for special leave to appeal refused, on the ground that the case came within s. 74, and the High Court had not certified under that section.)

Jones v. Commonwealth Court of Concuration and Arbitation, 1917 A C 528, 24 CLR, 396, 23

A L R, 387 (Appeal dismissed as incompetent, the question being an inter se question.)

Minister for Trading Concerns for the State of Western Australia v. Analgamated Society of Engineers, 1923 A C 170 (Special leave to appeal refused by Privy Council, the Attorney-General of the Commonwealth (who intervened by leave) contending that the appeal was not competent in the absence of a certificate under s 74)

(c) Distinction between "question" in this section, and "matters" and "matter" in ss 75 and 76 pectively, discussed by High Court "Purie v McFarlane, (1925) 38 CL R 170, at p. 198; 31 A L R respectively, d 365, at p. 376

(d) Held by the High Court that the question whether, under the third paragraph of s 95 of the Constitution, goods imported into Western Australia are liable to duty at the rates imposed by the Western Australian tariff where that tariff is higher than the Commonwealth tariff, is not a question as to the limits inter so of the constitutional powers of the Commonwealth and those of the State within the meaning of this section Mierray and Co v. Collector of Customs, (1903) 1 C L R 25, at p 38

meaning of this section. Mierray and Co. v. Collector of Customs, (1903) 1 °C L R 25, at 7 38

Held by the High Court that the question of the hability of a Commonwealth officer to an income tax imposed by a State Act in respect of his salary as such officer is a question as to the limits inter so of the constitutional powers of the Commonwealth and those of a State, within the meaning of this section, and therefore the decision of the High Court as to such hability is final and conclusive unless the Court certifies that the question is one which ought to be determined by His Majesty in Council Deakin v. Webb; Lyne v. Webb, (1904) C L R 585, 10 A L R 237

Held by the High Court that the question raised by the defence filed by a federal officer, that he was not liable to pay State income tax on his salary as a federal other, on the ground that such taxation of his income would be an interference with the free exercise of the powers of the Commonwealth, was a question as to the limits inter se of the constitutional powers of the Commonwealth and a State within the meaning of this section. Baxter v. Commissioners of Taxation (N.S.W.), (1907) 4 C.L.R. 1087; 13 A.L.R. 313.

of his income would be an interference with the free execute of the Commonwealth and a State within the meaning of this section Buxter v Commissioners of Taxation (N.S.W.), (1907) 4 C.L.R. 1087; 13 A.L.R. 318.

S. 46 of the Factories Act 1904 (W.A.) makes it an offence to employ in a factory in Western Australia a Chinese who was not so employed on or before 1st November, 1903. Held that a question as to the validity of this section, on the ground of discrimination contrary to s. 117, was not a question as to the limits inter se of the constitutional powers of the Commonwealth and the States. Lee Pay v Vincent, 1908) 7 C.L.R. 389, 15 A.L.R. 35.

Held by the Privy Council that a decision by the High Court that a particular dispute was a dispute extending beyond the limits of one State, and that in respect of it the President of the Commonwealth Court of Conciliation and Arbitration had, under valid legislation of the Commonwealth, jurisdiction to make an award, is a decision upon a question as to the limits inter se of the constitutional powers of the Commonwealth and those of the States, and, therefore, under this section of the Constitution the Privy Council has no jurisdiction to entertain an appeal from such a decision in the absence of a certificate by the High Court pursuant to this section. Jones v Commonwealth and seemed a certificate 1917 A.C. 528; 24 C.L.R. 396; 23 A.L.R. 387.

Held by the High Court that a question arises as to the limits inter se of the constitutional powers of the Commonwealth and those of a State, within the meaning of s. 40A of the Judiciary Act 1903–1920, in cases in which a decision upon either of the following questions is required for the determination of the case—(a) Whether such a State Act as the Motor Car Act 1915 (Vict.) binds persons who are also officers of the defence force of the Commonwealth and those of a State Courts and removing the cause to the High Court, is effective. Purre v. McFarlane, (1925) 36 C.L.R. 170, 31 A.L.R. 385

An action was prought against the Com

Question whether a decision as to the application of s 92 to State or Commonwealth raises a question as to the limits inter se of the constitutional powers of the Commonwealth and those of any State or States, discussed by High Court Ex parte Nelson (No. 2), (1929) 42 C L R 258; 35 A L R 177.

Held by the Full Court of the Supreme Court of Queensland that questions raised as to the validity of the Cift Duty Act of 1926 (Q) insofar as that Act relates to and taxes the girt of certain South Australian insorthed slock, shares in companies incorporated outside Queensland and mortgages of South Australian realty, are questions as to the limits inter se of the constitutional powers of the Commonwealth and of the State of Queensland, and also of the State of Queensland and the State of South Australia Counsell v Commossioner of Stamps, 1920 St R Qd 99

Held by the Full Court of the Supreme Court of Tasmania that the determination of the question whether s 48 and 49 of the Fisheries Act 1925 (Tasmania), as applying to fishing vessels trading interstate, were invalid as contravening s 92 of the Constitution, was not the determination of a question as to the limits inter se of the powers of the Commonwealth and the State Challenger v Rae. (1929) 24

L.R. 53

Tas L.R. 53
Held by the High Court that the question whether an employee who is under State law paid wages at a lower rate than the rate prescribed by an award of the Commonwealth Court of Conciliation and Arbitration binding on his employer is entitled to recover the difference is not a question as to limits inter so of the constitutional powers of the Commonwealth and a State

O'Keefe v. Country Roads Board, (1931) 45 C.L. R. 27.

(1951) 40 C.L. K. Z/.

Held by the Privy Council that the decision of the High Court as to the validity of the *Dried Fruits*Act 1924-1927 (S.A.) and of the orders of the Minister thereunder, was not one upon a question "as to
the limits inter se of the constitutional powers of the Commonwealth and those of any State or States",
and, consequently, a certificate giving leave to appeal to the Privy Council unders 74 of the Constitution
was not necessary, whether s 92 applied to the Commonwealth as well as to the individual States or not.

James v Covan, 1932 A C 542, 47 Cl.R 386, 38 A L R. 334

(e) Held by the High Court that the duty of the High Court in regard to questions under this section is to be determined upon consideration of the whole purview and history of the Constitution Baxter v. Commissioners of Taxation (N S W), (1907) 4 C L R 1087, 13 A L R 313

As to the obligation of Judges to observe, in cases coming under this section, the rules of interpretation laid down by the Privy Council for the guidance of His Majerty's tribunals overseas, see Huddart Parker & Co Ply Ltd v. Moorehead, (1909) 8 C L R 330, at p 389, 15 A L R 241, at p. 262

(f) Per Ouriam (High Court): Before the Court grants a certificate under this section it must at least appear to the Court that there is some reasonable ground for disputing the correctness of the judgment of the High Court. Municipal Council of Sydney v. Commonwealth, (1904) 1 C L R. 20S, at p. 242, 10 A.L.R. (C.N.) 29.

Held by the High Court that no general rule can be laid down as to what are "special reasons" for granting a certificate under this section. The following reasons were held by the High Court not to be sufficient reasons for granting a certificate under this section—(a) The desire of the Governments of all or some of the States that an appeal to the Privy Council should be allowed. (b) that the decision affects a large number of persons in many of the States and the revenues of those States, and (c) that the decision reverses a decision of the Supreme Court of a State. Dealin Webb; Lyne v Webb, (1904) 1 C L R. 585; 10 A L.R. 237

Held by the High Court that the principles applicable to the granting by the Privy Council of Large.

1 CLR 585; 10 ALR 237

Held by the High Court that the principles applicable to the granting by the Privy Council of leave to appeal from the High Court or from the Supreme Court of a State are not applicable to the granting of a certificate under this section. Deakin v Webb, (1904) 1 CLR, 585, 10 ALR 237.

Held by the High Court that the following are not "special reasons" justifying the grant of a certificate.—(a) The fact that a decision of the Privy Council on an interior guestion is contrary to a previous decision of the High Court as to which a certificate has been asked for and retused, and (b) the inconvenience caused by the existence of those contrary decisions. Flint v. Webb, (1907) 4 C.L R 1138: 13 ALR 348. 8: 13 A L R 348. Held by the High Court that the fact that the Court was equally divided in opinion upon a question

Held by the High Court that the fact that the Court was equally divided in opinion upon a question of very great importance is a reason why a certificate should be given by the High Court under this section. Limited certificate given Coloniul Sugar Refining Co. Ltd. v. Attorney-General of the Commonwealth, (1912) 15 C. L. R. 182, at p. 284, 18 A. L. R. 556, at p. 557. Held by the High Court (Gavan Duffy, C.J., Rich, Starke, Dixon and McTiernan, J.J.; Evatt, J., dissenting) that an application under this section in the case of New South Wales v. Commonwealth (No. 1), (1932) 46 C.L. R. 155, 38 A. L. R. 245, should be refused, the majority of the Justices pointing out that the case was one requiring an immediate and a final decision New South Wales v. Commonwealth (No. 2), (1932) 46 C.L. R. 235

- (g) For cases in which certificates have been granted or refused, see note (b), supra, pp 66-7
- (h) Principles upon which the Privy Council will act in dealing with applications for special leave to appeal from the High Court, discussed by Privy Council. Daily Telegraph Newspaper Co v. McLaughlin 1804 A C 778; 1 C L R 479, Willey Ore Concentrator Synducate Ltd v. N. Guthridge Ltd, 1906 A.C. 548, 4 C L R 202

Held by the Privy Council that where a litigant, having had the choice of an appeal from the Supreme Court of a State to the High Court or the Privy Council, has chosen to appeal to the High Court, the Privy Council will not entertain an appeal by him from the decision of the High Court, except under very special circumstances Vulorian Railway Commissioners v. Brown, 1906 A.C. 381, 3 C.L.R. 1182;

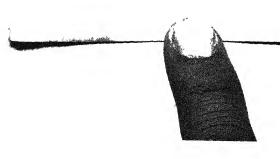
Council will not entertain an appeal by him from the decision of the High Court, except under very special circumstances Vutorian Railway Commissioners v. Brown, 1906 A.C. 381, 3.C.L.R. 1182; 12 A.L.R. (C.N.) 25.

As to whether the Privy Council is in an appeal from the High Court, "bound to accept and follow the decision of the High Court with regard to an inter se matter, see Baster v. Commissioners of Taxation, New South Wales, (1907) 4.C.L.R. 1087, 13.A.L.R. 313 See also Attorney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5.C.L.R. 318. at p. 852; 14.A.L.R. 516, at p. 528

Leave to appeal to Privy Council from High Court refused by Privy Council in a case where the question in controversy could not be raised again, and the sums actually in dispute or indirectly affected were inconsiderable in amount Commissioners of Taxation, New South Wales, v. Baxter, and Webb v. Fint, 1908 A.C. 214: 5.C.L.R. 398

As to a decision of the High Court being final and conclusive unders. 73 unless special leave is obtained under the last paragraph of this section—the case not raising an interse question—see McBrade v. Sandland (No. 2), (1918) 25.C.L.R. 369; 25.A.L.R. 54.

(i) Held by the High Court (Knox, CJ, Gavan Duffy, Powers, Rich and Starke, JJ.; Higgins, J, dissenting) that the word "matters" in this section involves some right, privilege or protection given by law, or the prevention, redress or punishment of some act inhibited by law In rethe Judiciary and Navigation Acts, (1921) 29 C L R. 237, 27 A L R. 193 See also In rethe Judiciary and Navigation Acts, (1923) 32 C.L.R. 455



75.(a) In all matters(b)

NOTES C. CARES — (a) As to whether this section and s. 76 cover every possible case of offences against the laws of the Commonwealth, queene. Ah Yiek v. Lemmert, (1905) 2 C. L. R. 593, at p. 607, 11 A. L. R. 306, at p. 310.

As to whether the Pathament may confer on the High Court original jurisdiction in other matters than those enumerated in sections 75 and 76, see per Griffith, C. J., in Ah Yiek v. Lehmert, (1905) 2 C. L. R. 593, at p. 603, 11 A. L. R. 396, at p. 308.

As to whether the High Court can be given any original jurisdiction other than in respect of the matters specified in. this section and s. 76, see **Lederal Capital Commission v. Laristan Building and Investment Co. Pty. L. d., (1926) 42 C. L. R. 582, at pp. 534—5.

Held by the High Court that this section and s. 76 comprise all the matters in respect of which original jurisdiction is or may be conferred on the High Court. R. v. Maryborough Incensing Court. Exparts Webster & Co. Itd., (1919) 27 C. L. R. 249, Th. re. Judocary and Navigation Acks. (1921) 29 C. L. R. 257, at p. 265, 27 A. L. R. 193, at p. 194. See also Porter v. R. Exparts Chin Man Yee, (1926) 37 C.L.R. 432, at p. 447, 32 A. L. R. 194, at p. 149.

(b) As to "be nine classes of matters enumerated in this section and s. 76 being the matters to which the indicial power of the Commonwealth, referred to in s. 77 as "federal jurisdiction," was to extend, see **Ratter v** Commissioners of Tazation (N. S. W.), (1907) 4 C. L. R. 1087, st pp. 1113, 1136—7, 13 A. L. R. 313, at pp. 324, 333.

Held by the High Court that the word "matters" in this section includes a claim founded on a contract entered into by some person on behalf of the Crown Duly v. State of Vutoria, (1920) 28 C. L. R. 395, 26 A. L. R. 267.

Held by the High Court that the word "matters" in this section includes a countrowersy arising out of an award in an arbitration in a case within the ambit of this section includes a controversy arising out of an award in an arbitration in a case within the ambit of this section include

See also cases under s 75 (iv), and cases on "matter" under s 76 of the Constitution.

(i.) Arising(a) under any treaty(b):

Notes of Cases —(a) Meaning of "arising" discussed. Australian Commonwealth Shipping Board V Federated Seamen's Union of Australasia, (1925) 36 (* L. R. 442, at p. 450, 31 A L. R. 352, at p. 354

(b) Placitum (ited by Latham, CJ, with so, 51 (NMA) and 61, as showing that the Commonwealth, its judicial, legislative and executive arms, has power to deal with Australia's relations with the outside ild. $R \times Burgess = Ex_parte_Henry$, (judgment delivered 10th November, 1936)

(ii.) Affecting consuls or other representatives of other countries:

(iii.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party(a):

Notes of Casea.—(a) As to whether the High Court has under this paragraph jurisdiction to issue a mandamus to the Registrar of Titles of a State to register an instrument to which the Commonwealth is a party and which he has improperly refused to register, see R v Reastrar of Titles, Vi , Ex parte Commonwealth, (1915) 20 C.L R 379, 21 A L R. 433 As to whether the Commonwealth is a party, within the meaning of this paragraph, in cases where the Commonwealth is ryoking the aid of the judicial power in the punishment of offences committed against its laws, see R v. Kulman, (1915) 20 C.L R 425; 21 A L R 405 As to whether Part II of the Financial Agreements Enforcement Act 1932 is within the power derived by the Parliament from the operation of this paragraph, see New South Wales v Commonwealth (No. 1), (1932) 46 C.L.R 155, at pp. 173, 174, 176, 208, 210, 214, 225, 229, 233-4. 38 A L.R. 245, at pp. 249-50, 203 5, 270, 271, 273

Held by the High Court (Isaacs, Higgins, Gavan Duffy and Rich, JJ., Griffith, C.J., Barton and Powers, JJ., dissenting) that, in a case in which the Commonwealth had admitted hability for compensation under the Vommonwealth Workmen's Compensation and electerining the amount of compensation, made detailed orders as to the investment of the moneys, the High Court had no jurisdiction under this paragraph to make absolute an order nist for prohibition on the ground of alleged excess of jurisdiction. The grounds of decision of the majority

Original furisdiction of High Court.

were - as to Higgins, Gavan Duffy and Rich, JJ - that the Commonwealth was not, within the meaning of this paragraph, a "party" to the proceedings for prohibition, and—as to Isanos, J—that though the Commonwealth was a "party" it had no suitor's interest in the subject-matter of the excess of jurisdiction. R. v. Murnay and Cormie * Ex. parte the Commonwealth, (1916) 23 C. L. B. 37, 22 A. L. B. 413

Held by the High Court (Knox C. I., leads, Rich and Starke, JJ) that the High Court has jurisdiction to entertain an action for a tort brought by the Commonwealth against a State without the consent of that State, such jurisdiction being conterred by this paragraph. Commonwealth v. New South Wales, (1923) 32 C.L. R. 200, 29 A.L. R. 230

(iv.) Between States (a), or between residents (b) of different States(c), or between a State and a resident(c) of another

Notes of these—(a) Held by the High Court that the "matters", between States", in respect of which original jurisdiction is conterred by this section on the high Court, are matters which are of a like nature to those which can arise between individuals and which are capable of determination upon principles of law, and that the High Court has jurisdiction to entertain an action by one State against another seeking a declaration that certain land adjoining the boundary and in the defauto occupation of the latter state formed part of the territory of the former State. South Australia v. Vutoria, (1911) 12 (1912) 13 14 19 2006. (1911) 12 (1 L R 667 , 17 A L R 206

(1911) 12 C.I.R. 667, 17 A.I.R. 206

(b) Held by the High Court that it has no jurisdation to entertain a suit under this paragraph when it is not established that the parties at the time of the bringing of the action were residents of different States Dahms - Brandsch (1911) 13 C.I.R. 336

As to whether a married woman bring in one State, whose husband is domiciled elsewhere, can be a resident" of the State in which sho is living, within the meaning of this plantum, see Renton v. Renton, 1917 S.A.I.R. 277

Decision reversed by High Court on other grounds - Renton v. Renton, (1918) 25 C.I.R. 291, 25 A.I.R. 1

Held by the High Court (Knov, C.J., Higgins and Gavan Duffy, J.J., Isaacs and Starke, J.J., dissenting) that the words "residents" and "resident" in this paragraph refer to natural persons only and not to artificial persons or corporations - The Australisan Temperance and General Mutual Life Assurance Society Lid. v. Howe, (1922) 31 C.I.R. 290, 29 A.I.R. 16

Held by the Supreme Court of Victoria that something more than more temporary residence of a husband in another State is required to make husband and wife residents of different states within the meaning of this plantum - Coates v. Coates, 1925 V.I.R. 231, 46 A.I.T. 180, 31 A.I.R. 187

Decision of the High Court in Australisana Temperance and General Mutual Life Assurance Society Ltd. v. Howe—that a corporation is not a "resident" within the meaning of this scitor—followed by Supreme Court of Queensland - City and Suburban Parcel Delivery (Bryce) Ltd. v. Gordan Brook Ltd., 1932 St.R. Qd, 213

- Application for reconsideration of the decision in The Instralacian Temperance and General Mutual Life Issurance Society Ital v. Hone refused by High Court, which held that two companies concerned in the case were not "residents" within the meaning of this section, and therefore the action could not be maintained against them in the High Court. Cox v. Journeaux, (1934) 52 °C. L. R. 282

 (c) Held by the High Court—in a case in which a resident of Victoria and a resident of New South Wales commenced an action against a resident of New South Wales—that an action instituted in the High Court in which there is on each side of the record a resident of the same State who is a necessary party to the action, is not a matter "between residents of different States" within the meaning of this section Watson and Godfrey v. Cameron, (1923) 40 °C. L. R. 146, 34 A. L. R. 44.
- (d) Held by the High Court that an action might be brought in the High Court under this section, by a resident of New South Wales against the State of Victoria for a declaration that money claimed by and paid under protest to the Victorian Commissioner of Taxes as probate duty under the Administration and Probate Act 1915 was not properly payable, and for a refund of the amount so paid Daly v State of Victoria, (1920) 28 C.I. R. 395, 26 A.I. R. 297

 As to an action being brought against a State, without its consent, is a resident of another State, see New South Wales v Bardolph, (1934) 52 C.I. R. 455, 41 A.I. R. 22

 As to the State being in a different position from that of a subject who is sued for breach of contract, see New South Wales v Bardolph, (1934) 52 C.I. R. 455, at pp. 459-60, 41 A.I. R. 22, at p. 23

(v.) In which a writ of Mandamus or prohibition (a) or an injunction is sought against an officer of the Commonwealth^(b): the High Court shall have original jurisdiction.

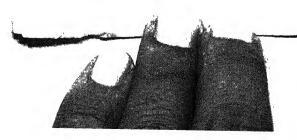
Notes of Cases —(a) As to whether prohibition is an exercise of original or appellate jurisdiction, see R v. Commonwealth Court of Concellation and Arbitration, Exparte Whybrow & Co., (1910) 11 C L R 1; 16 A L R. 373

Held by the High Court that jurisdiction to issue prohibition to a tribunal acting without or in excess of its jurisdiction is in its nature original and not appellate R v. Commonwealth Court of Concellation and Arbitration and Australian Tramway Employees' Association, (1914) 18 C L. R. 54, 20 A L R. 126

As to the power of Parliament to assign the prohibition jurisdiction under this paragraph to a single judge, see Federated Enginedrivers' and Firemen's Association of Australia v. Colonial Sugar Refining Co. Ltd., (1916) 22 C L. R. 103, at pp. 115, 120, 22 A L. R. 328, at pp. 332, 334

Per Isaacs, Gavan Duffy and Rich, JJ; This paragraph relating to prohibition does not include prohibition to the High Court itself. Federated Enginedrivers' and Firemen's Association of Australian v. Colonial Sugar Refining Co. Ltd., (1916) 22 C L. R. 103, at p. 117; 22 A L. R. 328, at p. 333

Per Isaacs, Gavan Duffy and Rich, JJ., The words in s. 21a. at 6 the Commonwealth Conciliation and Arbitration Act 1904–1915 declaring that decisions of a single justice of the High Court, under that section, as to the existence of an industrial dispute are not to be subject to prohibition, do not purport to touch the jurisdiction as to prohibition conserved on the High Court by this paragraph. Federated Enginedrivers' and Firemen's Association of Australias a Colonial Sugar Refining Co. Ltd., (1916) 22 C L. R. 103, at p. 117; 22 A.L.R. 328 at p. 333.



Prohibition directed to the President of the Commonwealth Court of Conciliation and Arbitration refused by the High Court in a case in which, in the view of Griffith, CI, and Barton, J. the grounds relied on for prohibition were matters of defence on the merits and not a plea to jurisdiction, and, in the view of Isaacs, Gavan Duffy and Rich, JJ, a clear case of want of jurisdiction had not been made out R v President of Commonwealth Court of Conciliation and Arbitration, Expante Australian Agricultural Co Ltd. (1916) 22 C L R. 261, 22 A.L R. 355

Held by the High Court (Knov, C J, Gavan Duffy and Starke, JJ; Isaacs, Higgins and Rich, JJ, dissenting) that in a case in which one Cinaries Hibble, who was the Chairman of a special tribunal constituted under the Industrial Peace Act 1920, had made what purported to be an award, a writ of prohibition should issue to Hibble directing him not to proceed further with the alleged award R v Hibble; Exparte Broken Hill Proprictary (a Ltd. (1920) 28 C L R 456, 27 A L R 84 Question whether a writ of prohibition will be to a tribunal which is functus officus, discussed Ibud the High Court that a writ of prohibition does not be to a Board constituted under s 8A of the Immigration. Act 1901–1920, the Board not being a Court or judicial tribunal R v Macfarlane, Exparte O'Elanagan and O'Kellu, (1923) 32 C L R 518, 29 A L R 353

Held by the High Court (Knov, C J, Gavan Duffy and Starke, JJ, Isaacs and Bich, JJ, dissenting) that the High Court (Knov, C J, Gavan Duffy and Starke, JJ, Isaacs and Bich, JJ, dissenting) that the High Court of Conciliation and Arbitration where an award has been made by him without jurisdiction.

Waterside Workers' Federation of Australia v Giehrist, Watt and Sanderson Ltd. (1924) 34 C L R 482, 30 A L R 402

Distinction drawn by the High Court of Conciliation and arbitration where an award has been made by him without jurisdiction.

Waterside Workers' Federation of Australia v Giehrist, Watt and Sanderson Watley 34 C L R 482, 30 A L R 402

Distinction of

41 CLR 402, at p 423, 34 Å.LR 401, at p 403

(b) Reason for insertion of this paragraph discussed by High Court Ah Yiek v Lehmert, (1905) 2 CLR 593, at pp 608-9, 11 Å LR 366, at p 311

Held by the High Court that the Governor of a State is not, in respect of the powers conferred upon him by section 12 of the Constitution, an officer of the Commonwealth within the meaning of this paragraph. R v The Governor of the State of South Australia, (1907) 4 C LR. 1497, 14 Å LR 98.

Held by the High Court that the jurisdiction conferred by this section has not been enlarged by the Hugh court that the jurisdiction conferred by this section has not been enlarged by the As to the power of the High Court under this section to issue prohibition to the Commonwealth Court of Conciliation and Arbitration, and as to the meaning of the world, "officer of the Commonwealth", see R v Commonwealth Court of Conciliation and Arbitration, Ex parte Whybrow & Co. (1910) 11 C LR 1; 16 Å LR 373

Held by the High Court that the words "officer of the Commonwealth" include judicial officers of the Commonwealth properly so called, and therefore include the President of the Commonwealth Court of Conciliation and Arbitration appointed for life.)

delivered before the Commonweath Court of Concination and Arbitration was constituted of judges appointed for life)

Held by the High Court (Isaacs, Eligains, Gavan Duffy and Rich, JJ., Griffith, CJ and Barton, J dissenting) that a judge of an interior court of a State invested with and purporting to exercise federal jurisdiction is not an "officer of the Common realth" within the meaning and for the purposes of this paragraph R v Murray and Cormie, Expar "the Commonwealth, (1916) 22 C L R 437, 22 A L R 413

76(a). The Parliament may make laws confe. ring original jurisdiction Additional on the High Court in any matter(1) (b)___

GEVERAL NOTES —(1) As to the laws by which original jurisdiction has been conferred on the High Court in pursuance of this section, see the entries in the Table of Commonwealth legislation, opposite

NOTES OF CASES —(a) As to whether the Pailiament may confer on the High Court original, unisdiction in other matters than those enumerated in ss 75 and 76, see per Griffith, CJ, in Ah Yick v. Lehmert, (1905) 2 CLR 593, at p 603, 11 ALR 306, at p. 308

As to whether s 75 and this section cover every possible case of offences against the laws of the Commonwealth, quaere Ah Yick v. Lehmert, (1905) 2 CLR 593, at p. 607, 11 ALR 306, at p. 310

As to the place case of matters are matters.

As to the nine classes of matters enumerated in s 75 and this section being the matters to which the judicial power of the Commonwealth, (referred to in s. 77 as "federal jurisdiction"), was to extend, see Batter v. Commassioners of Taxation (N S W), (1907) 4 C L R 1087, at pp 1113, 1136-7; 13 A L R 313,

Batter v. Commissioners of Taxation (N S W), (1907) 4 C L R 1087, at pp 1113, 1136-7; 13 A L R 313, at pp 324, 333
Held by the High Court that s. 75 and this section comprise all the matters in respect of which original jurisdiction is or may be conferred on the High Court R v Maryborough Livensing Court: Ex parts Webster & Co Ltd, (1919) 27 C L R. 249, In re Judiciary and Navigation Acts, (1921) 29 C L R 257, at p. 265; 27 A L R 193, at p 194
Distinction drawn between s. 75 (by which jurisdiction is conferred on the High Court independently of Parliamentary enactment) and this section (by which jurisdiction is dependent on Parliamentary enactment) Commonwealth v New South Wales, (1923) 32 C L R 200, at p 207; 29 A L R 289, at p 291
Per Starke, J There is no appeal as of right to His Majesty in Council in matters within the original jurisdiction conferred on the High Court in pursuance of this section, but only an appeal as of grace in matters not prohibited by s; 74. Commonwealth v Limerick Steamship Co. Lill and v Kulman, (1924) 35 C.L R. 69, at p 115, 31 A L R 153, at p. 168 (Special leave to appeal from the decision of the High Court in Commonwealth v. Kulman refused by Privy Council Kulman v Commonwealth, (1925) 32 A.L.R. 1)
As to whether the maxim expressio unius est exclusio alterius applies to this section so as to prevent

32 A.L.R. 1)
As to whether the maxim expressio unius est exclusio alterius applies to this section so as to prevent the Parliament from conferring other jurisdiction on the High Court, see Porter v R, Ex parts Yee, (1926) 37 C.L.R. 432, at p 447, 32 A.L.R. 144, at p. 149.

(b) Held by the High Court (Knox, C.J., Gavan Duffy, Powers, Rich and Starke, JJ; Higgins, J. dissenting) that the word "matter" in this section involves some right, privilege of protection given by law, or the prevention, redress or punishment of some act inhibited by law. In rethe Judiciary and Navigation Acts, (1921) 29 C.L.R. 257; 27 A.L.R. 193.

jurisdiction.

Held by the High Court that the word "matters" in this section. Minister for Home and Territories v. Smith, (1924) 35 C L R. 120, 31 A L R. 74
Distinction between "matter" in this section and "question" in 3 '4 discussed. Purie v. McFarlane, (1925) 36 C L R. 170, at p. 198, 31 A L R. 365, at p. 375
A controversy arose between the Commonwealth and a State over the question whether a Court of Marine Inquiry established under the Navigation Act 1912-1925 had jurisdiction to inquire into a collision between two steamships owned and registered in one port, and engaged solely in trading in a particular port, and not engaged in inter-State or foreign trade, the place at which the collision occurred being abort distance outside the course ordinarily used by ships engaged in such trade, though the steamships had traversed part of that course shortly before the collision took place. As to whether such a controversy is a "matter" within the meaning of s. 75 and this section, see R. v. Turner, Expurie, Marine Board of Hobart Tusmania v. Commonwealth, (1927) 39 C L R. 411, at p. 427, 33 A L R. 174, at p. 178
See also cases on "matters" under s. 75 of the Constitution

(i.) Arising(a) under this Constitution, or involving(b) its interpretation(c):

Notes of Case —(a) Meaning of "arising" discussed by High Court — Australian Commonwealth Shipping Board v Federated Scamen's Union of Australiana, (1925) 36 C.L.R. 442, at p. 450, 31 A.L.R. 352, at p. 354

Shi ping Board v Federated Seamen's Union of Australasia, (1925) 36 C.L.R. 442, at p. 450, 31 A.L.R. 352, at p. 354

(b) Meaning of 'mvolving' discussed by Full Court of the Supreme Court of Victoria. In re Drew, 1919 V.L.R. 600, at pp. 606-9, 612, 25 A.L.R. 400, at pp. 402-3, 404, 41 A.L.T. 35, at pp. 68-9, 70

(c) Held by the High Court that the question whether it is within the competence of a State Parliament to enact certain legislation which had the effect of reversing a decision of the High Court is not a matter arising under the Constitution or involving its interpretation. Hogan v Orbitree, (1910) 10 C.L.R. 535

Held by the High Court (Isaacs, Higgins, Gavan Duffy, Powers and Rich, JJ., Guithth, C.J. and Barton, J., dissenting) that the whole of s. 21AA of the Commonwealth Conciliation and Arbitration Act. 1904-1915—which inter alia confers jurisdiction on a single Justice of the High Court to determine whether an industrial dispute exists—is a valid exercise of the power conferred on the Parliament by paragraphs (1) and (11) of this section. Federated Enginedrivers' and Firemen's Association of Australasia v. Colonial Sugar Refining Co. Int., (1916) 22 C.L.R. 103, 22 A.L.R. 323

Held by Barton, Isaacs, Higgins and Rich, JJ., that where an officer of the Defence Department engaged in the performance of his duties is proscented for driving a motor car in a manner dangerous to the public, the matter is one which involves the interpretation of the Constitution, and is therefore one of Federal jurisdiction. Trov v. Winglewooth, (1919) 26 C.L.R. 305; 25 A.L.R. 196

As to States being possible litigants under this paragraph, see Griffin v. South Australia, (1924) 35 C.L.R. 200, 31 A.L.R. 81.

Held by the High Court (Knox, C.J., Isaacs, Higgins, Ric, and Statle, JJ.) that s. 40 of the Judiciary Act. 1903-1920—which provides for the revious to the Hill Court of causes or parts of causes arising under the Constitution or involving its interpretation—is valid everys of the powers conferred upon the Commonwealth

(ii.) Arising(a) under any laws made by the Parliament(b):

Notes of Cases - (a) Meaning of "arising" discussed by High Court Australian Commonwealth Shipping Board v. Federated Seamer's Union of Australasia, (1925) 36 CL R 442, at p 450, 31 A L.R. 352, at p 351

352, at p 351

(b) Per Birton, J. The proceeding, under s 68 of the Commonwealth Conciliation and Arbitration Act 1904, in a court of sammary jurisdiction for the recovery by an organization under that Act of levies and dues due by a member is a matter arising under a law made by the Parliament. Federated Sawmil, Timbergurd and General Woodworkers Employees Association (Adelaule Branch) v. Alexander, (1912) 15

C1.R. 308, at p 317, 19 A f. R. 22 at p. 25.

Jurisdiction conferred on the High Court, in pursuance of this paragraph, in "trials of indictable offences against the laws of the Commonwealth", discussed by High Court. R. v. Kidman, (1915) 20

CL.R. 425, 21 A L.R. 405

Per Griffith, C.J.. The provision in the Judiciary Act 1913 amending s 30 of the Judiciary Act 1903

by adding words conferring jurisdiction on the High Court "in trials of indictable offences against the laws of the Commonwealth" was passed in intended execution of the power conferred by this paragraph. Distinction between "laws made by the Parliament" and "laws of the Commonwealth" discussed R. Kidman, (1916) 20 CL.R. 425, at p. 438; 21 A L.R. 405, at p. 409.

Held by the High Court (Isaacs, Higgins, Gavan-Duffy, Powers and Rich, JJ., Griffith, C.J., and Barton, J., dissenting) that the whole of s 21AA of the Commonwealth Conculation and Arbitration Act 1904–1915—which inter alsa confers jurisdiction on a single Justice of the High Court to determine whether an industrial dispute exists—is a valid exercise of the power conferred on the Parliament by paragraphs (i) and (ii) of this section. Federated Enginedriners' and Friemen's Association of Australiasia v. Colomal Sugar Refining Co. Lia., (1916) 22 CL R. 103, 22 4 L.R. 323.

Held by the High Court that under this paragraph the Parliament may confer upon the High Court original jurisdiction to determine judicially the propriety of ordering security to be given in a case in which

the defendant applies for security for the costs of an action instituted by a writ issued out of the Court of a State, to which writ extra territorial operation is given in pursuance of placitum (xxiv) of section 51. McGlew v New South Wales Malting Co Ltd; 7(918) 25 C L R 416, 25 A L R 87
Held by the High Court that a decision by a Court of Requests of Tasmania that a judgment debtor was an employee in the Commonwealth service within the meaning of s 64 of the Commonwealth Public Service Act 1922 was a matter arising under a law made by the Parliament within the meaning of this paragraph. Commonwealth v Cole, (1923) 32 C L R 602
Per Isaacs and Ruch, JJ The jurisdiction conferred upon the High Court by s 48 of the Commonwealth Concludition and Arbitration Act 1904-1921- to enjoin any party from contravening the provisions of an award—is conferred not by the Constitution directly but by Parliament under this section, and must be exercised on the terms and subject to the hunitations Parliament has thought fit to declare Waterinde Workers' Federation of Justratia v Gilchiust, Watt and Sanderson Ltd., (1924) 34 C L R. 482, at p 541, 30 A L R 402 at p 446

As to States being possible litigants under levislation passed under this wargraph, and as to the liability of a State to an older for discovery and to the administration of interrogatories, see Griffin v South Australia, (1924) 35 C L R 200, 31 A L R 81

As to the validity of sees 18 and 19 of the Income Tax Assessment Act 1927 providing in certain events for an appeal to the High Court, and the question whether the appeal in question is the creation of original jurisdiction, see Federal Commissioner of Taxation v Miniro British Imperial Oil Co Ltd v Federal Commissioner of Taxation, (1926) 38 C L R 153, et p 181, 23 A L R 39, at p 350

As to whether the Legislature can invest the High Court with original jurisdiction in respect of the Territory for the Seat of Government and in respect of other matters than those specific in secs of face Federal Commission v Lar

(iii.) Of Admiralty and maritime jurisdiction(a):

Notes of Cases—(a) As to whether this paragraph can be regarded as supporting the validity of the Seamen's Compensation Act 1909 purporting to regulate intra-state trade, see Owners of SS Kalibia v Wilson, (1910) 11 C L R 689, at pp 699, 703-4, 715, 17 A L R 410, at pp 413 415, 419

As to the authority under which Admirativ jurisdiction is conferred on the High Court see John Sharp & Sons Ild v The Katherine Machall, (1924) 34 C L R 420, at pp 426 428, 433, 30 A L R 321, at pp 324, 326

As to the extent of the power given to the Parliament by this section to confer Admiralty and maritime jurisdiction on the High Court, see R v Tuiner, Ex parle Marine Board of Hobart, Tusmana v Commonwealth, (1927) 39 C L R 411, at p 448; 33 A L R 174, at p 186, Le Mesurier v Connor, (1929) 42 C L R 481, at p 507, 36 A L R 41, at pp 49-50 1 A B ('97, at p 122)

- (iv.) Relating to the same subject-matter claimed under the laws of different States.
- 77. With respect to any of the matters (a) mentioned in the last two Power to define jurisdiction sections the Parliament may make laws-

Notes of ('Ases --(a) Held by the High Court (Knox, CJ Gavan Duffy, Powers, Rich and Sterke, JJ, Higgins, J., dissenting) that the word "inatters" in this section involves some right, privilege or protection given by law or the prevention, redress or punishment of some act inhibited by law In reJudiciary and Narigation Acts, (1921) 29 (LR 257, 27 A LR 193 See also cases on "matters" and "matter" under ss 75 and 76 respectively

(i.) Defining the jurisdiction(a) of any federal court other than the High Court(b):

NOTES OF CASES —(a) As to the meaning of the terms "jurisdiction" and "federal jurisdiction" in this section, see *Baxter* v Commussioner of Taxation (N S W), (1907) 4 C L R 1087, at pp 1113, 1142, 13 A.L R. 313, at pp 324, 335; Lorenzo v. Carey, (1921) 29 C L R 243, at p 252, 27 A.L R 225, at p

(b) Held by the High Court that the federal jurisduction which the Parliament is by this paragraph authorized to confer upon federal courts other than the High Court includes both original and appellate jurisdiction. Ah Yich v Lehmert, (1905) 2 C.I. R. 593; 11 A.L.R. 306 New South Water v. Commonwealth (1915) 20 C.I.R. 54 at p. 90; 21 A.L.R. 128 at p. 144

Per Isaacs, J. If < 101 of the Constitution relating to the powers of adjunction and administration of the Interstate Commission confers judicial powers on the Commission, that section combined with this section would confer on the Commission power to try criminal cases

New South Water v. Commonwealth, (1915) 20 C.I.R. 54, at p. 93; 21 A.I.R. 128, at p. 145.

(ii.)(a) Defining the extent to which the jurisdiction(b) of any federal court(c) shall be exclusive of that which belongs to(d) or is invested in(d) the courts of the States:

NOTES OF CASES —(a) Per Higgins J The Parliament cannot under this provision exclude the King in Council from federal jurisduction Barter v Commissioners of Tavatron (N S W), (1907) 4 C L R 1087, at p 1163, 13 A L.R 313, at p 342

at p 1103, 13 A Lak 313, at p 342

(b) As to the meaning of the terms "jurisdiction" and "federal jurisdiction" in this section, see Baxter v Commissioners of Taxatom (N S W), (1907) 4 C L R 1087, at pp 1113, 1142, 13 A L R 313, at pp 324, 335, Lorenzo v Cureu, (1921) 29 C L R 243, at p 252, 27 A L R 225, at p 228 See also cases cited in note (d) on page 61, surpa Per Isaacs, J The jurisdiction referred to in this paragraph includes appellate as well as original furisdiction. George Hudson Lid v Australian Timber Workers' Union, (1923) 32 C L R 413, at p 429, 50 A L R 13, at p 19

(c) Held by the High Court that "federal court" in this paragraph includes the High Court , Pittle V McFarlane, (1925) 36 C L R 170; 31 A L R 365
As to the power of the Commonwealth under this paragraph to make the appellate jurisdiction of the High Court exclusive of the appellate jurisdiction of the State Supreme Courts in matters of federal jurisdiction, see Flat V Webb, (1407) 4 C L R 1178, at pp. 1187, 1193, 13 A L R 318, at pp. 349, 352
Held by the Privy Council that assuming s 39 (2) of the Judiciary Act 1903 (enacted in pursuance for 77 (in)) is valid, it is not retrospective. Colonal Swar Refining Co. Irring, 1905 A C 369, affirming Colonal Swar Refining Co. Irring, 1905 A C 369, affirming Colonal Swar Refining Co. Irring, 1905 A C 369, affirming Cose, 1905 V L R 463, 11 A L R 117, 25 A L T 198, and, on appeal to the Privy Council, Webb v Outtrim, 1907 A C 31; 4 U L R 556, 13 A L R (C N.) 1

Per Isaacs, Powers and Rich, JJ This paragraph authorizes the enactment of a 40a of the Judiciary Act 1903-1915 by which we see cases are removed as of course from the Supreme Court of a State to the High Court Joseph Colonal Treasurer (N S W), (1918) 25 C L R 32, at p 49, 24 A L R 185, at p 191.

Held by the High Court that under this paragraph the Parlament of the Commonwealth has power to invest the Courts of the States with Federal jurisdiction to determine judicially the propulety of ordering security to the costs of an action instituted by a writ issued out of the Court of a State, to which writ extra-territorial operation is given in pursuance of placetum (xiv) of s 51 McGlew v New South Wales Malting Co Ltd., (1918) 25 C L R 416, 25 A L R 85, 45 ow whether the Parliament has power to attach conditions to any exclusion effected in pursuance as a condition of the Courts of the Parliament has power to attach conditions to any exclusion effected in pursuance as a condition of the Courts of the Parliament has power to attach conditions to any exclusion effected in pursuance as a condition of the Courts of the Pa

(d) As to the meaning of the expressions "belongs to" and "is invested in" see Buxter v. Commissioners of Taxation (NS W), (1907) 4 C L.R. 1087, at pp. 1142-3; 13 A L R. 313, at p. 335, In re Drew, 1919 V L R. 600, at p. 607, 25 A L R. 400, at p. 402, 41 A L T. 65 at p. 68 George Hudson Ltd v. Australian Timber Workers' Union, (1923) 32 C L R. 413, at p. 429, 30 4 L R. 13, at p. 19.

(iii.) Investing any court of a State with federal jurisdiction (a).

Notes of Cases.—(a) Held by the High Court that the federal jurisdiction with which the Parliament is by this section authorized to invest the Courts of the several States includes both original and appellate jurisdiction. Ah-Yach v. Lehmert, (1905) 2 C.L.R. 593, 11 A.L.R. 306, New South Wakes v. Commonwealth, (1915) 20 C.L.R. 54, atp. 90, 21 Å.L.R. 128, atp. 144.

As to the validity of a 30 (2) (a) of the Judacary Act. 1903, see In re the Income Tax Acts; Outtrim's case, 1905 V.L.R. 468, 11 A.L.R. 117; 26 Å.L.T. 198, and, on appeal to the Privy Council, Webb v. Outtrin, 1907 A.C. 81, 4 C.L.R. 356, 13 Å.L.R. (C.N.) 1.

Held by Rooth, J. (Supreme Court of Western Australia) that it is this section which authorizes the Parliament of the Commonwealth to enact the High Court Procedure Act. 1903, particularly Rule 9 of Section 1V. of Part II. of the Schedule to that Act, which provides that when notice of appeal is given without the leave of the High Court in a case in which an appeal cannot be brought as of right the Court from which the appeal is proposed to be brought, or a Judge thereof, may set aside the notice. Milne v. James, (1910) 12 W.A.L.R. 111, at pp. 115-6.

Manner in which Commonwealth has invested State Courts with federal jurisdiction discussed by the High Court. Commonwealth v. Brisbane Milning Co. Ltd., (1916) 21 C.R. 559, at p. 577; 22 A.L.R. 272, at p. 278.

As to the power to attach conditions to any investiture of jurisdiction under this paragraph, see Lorenzo v. Carey, (1921) 29 C.L.R. 243; 27 A.L.R. 225

Held by the High Court (Isaacs, Rich and Starke, J.J.) that s. 39 (2) (a) of the Judiciary Act 1903-1920, on its proper interpretation, has the effect of excluding an appeal as of right to the Privy Council from a

decision of the Supreme Court of a State evercising federal jurisduction, and of giving to the High Court jurisduction to entertain an appeal from such a decision, that, so interpreted, the section in question is a valid exercise of the power conterred by this paragraph. Meaning of para (in) discussed. Commonwealth v. Limiter. Steamship Co. Ltd. and v. Kuhman, (1924) 33 Ct. R. 69, 31 A.J.R. 153 (Special leave to appeal from the decision of the High Court in Commonwealth v. Ruhman lettused by the Privy Council Endman. Commonwealth. (1925) 32 A.J.R. 1)

Per Isaacs, Rich and Starke, J.J. Section 39 (2) (a) of the Judiciary 1ct. 1903–1920 is a valid exercise of the power conterred by s. 77 (11) of the Constitution, and therefore in a case before the Supreme Court of Victoria in which the Commonwealth was a party the Full Court had no junisdiction to laake.an order granting leave to appeal to the Privy Council. Commonwealth v. Kredninger and Fernan Ltd. and v. Burdsley, (1926) 37 Ct.R. 393, 1926 V. L. 331, 32 A-J.R. 161

Per Higgins, J. The Supreme Court of the Northern Territory is invested with federal jurisdiction, not inder this paragraph. But unders is 122 of the Constitution. Wall v. R.; Exparte King Won and Wath On (No. 1), (1927) 39 C. L. R. 245, at p. 262, 33 s. L. R. 100, at p. 107

Held by the High Court (Knox, C.J., Rich and Divon, J.J., Isaacs and Starke, J.J., dissenting) that this paragraph does not enable the Parliament to make a Commonwealth officer a functionary of a State Court and authorize hims to act on its behalf and administer part of its jurisdiction. Le Measurer Comnor, (1929) 42 C. L. R. 181, 36 A. L. R. 41, 1. A. B. C. 97

Held similarly that this paragraph contemplates the selection by the Pathament of an existing judicial organ which depends alike for its structure and its being upon State law and the grant to it of powers of adjudication upon specified subjects of federal jurisdiction. Ibid. Held similarly that s. 18 (1) (b) of the Bankruptcy Act 1921-1928—which provides that the Court

78.(a) The Parliament may make laws conferring rights to proceed Proceedings against the Commonwealth or a State in respect of matters(b) within Commonwealth the limits of the judicial power.

Noise of Cases—(a) Per Griffith, CJ This section authorizes the enactment of s 50 of the Judiciary Act 1903, under which any person making any claim against the Commonwealth, whether in contract or in tori, may, in respect of the claim, bring a suit against the Commonwealth in the High Court or in the Supreme Court of the State in which the claim arose Commonwealth v Baume, (1905) 2 C L R 405, at pp 412, 418; 11 A L R 124, at pp 126, 128

Held by the High Court that the rights conferred by s 64 of the Judu ury Act 1903 enacted in pursuance of this section are rights of procedure Commonwealth & Baume, (1905) 2 C L R 405, 11 A L R 124 Decision followed by Full Court of the Supreme Court of South Australia in Clutterbuck Brothers & Ringwood, 1906 S A L R 130

Per Isaacs, J. This section, coupled with s. 75 (iv), negatives the view that there is an implied exception from s. 75 (iii) of State instrumentalities as defendants where the Commonwealth is the plaintiff R v. Registrar of Titles (Vic); Ex. parte Commonwealth, (1915) 20 C L R. 379, at p. 388; 21 A L.R. 435, at

Held by Higgins, J, that the High Court has jurisdiction to entertain an action for a tort brought by the Commonwealth against a State without the consent of that State, such jurisdiction being conferred by s. 58 of the Judiciary Act 1903-1920 enacted under the power given by this section Commonwealth v. New South Wates, (1923) 32 C L R. 200, 29 A L R. 259

As to whether this section authorizes the enactment of 5. 64 of the Judiciary Act 1903-1920, which the design of the section authorizes the enactment of 5. 64 of the Judiciary Act 1903-1920.

the plaintiff the right to obtain discovery of documents from, and to administer interrogatories to, the defendant, and as to whether s. 64 applies where the defendant is a State and the plaintiff a resident of another State, see Griffin v. South Australia, (1924) 35 C L R. 200, at pp. 205, 209; 31 A L R 81, at p 82

As to whether Part II. of the Francoal Agreements Enforcement Act 1932 is within the power derived by the Parliament from the operation of this section, combined with s 105A (5) see New South Wales v. Commonwealth (No. 1), (1932) 48 C.L. R 155, at pp 173, 174, 180, 203; 211-5, 225; 38 A L.R 245 at pp 248, 249, 251, 260, 265-6, 270

Per Dixon, J.: The principle that the Attorney-General of the Commonwealth or a State is the proper representative of the Commonwealth or the State, as the case may be, is recognized by ss. 61 and 62 of the Judiciary Act 1903, enacted by virtue of this section Tasmania v Victoria, (1935) 52 C L R. 157, at p. 187, 41 A L.R. 157, at p. 167

(b) Held by the High Court (Knox, CJ, Gavan Duffy, Powers, Rich and Starke, JJ, Higgms J, dissenting) that the word "matters" in this section involves some right, privilege or protection given by law, or the prevention, redress or punishment of some act inhibited by law In re the Judiciary and Narigation Acts, (1921) 29 C. R. 257, 27 A.L. R. 193

See also cases on "matters" and "matter" under ss 75 and 76 respectively

Number of judges.

79.(a) The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

Notes of Cases—(a) As to the power of the Pathament to prescribe the number of judges by whom invested jurisdiction should be exercised, see Batter v Commissioners of Taxatton (N S W) (1907) 4 CLR 1087, at p 1145, 13 A LR 313, at p 336, Loneito v Carey, (1921) 29 CLR 243, at p 253, 7A LR 225, at p 228, Commonwealth v Limerical Steamship Co Ltd and v Kulman, (1924) 35 CLR 69, at p 105, 31 A LR 153, at p 164 (Special leave to appeal from the deerston of the High (Sourt in Commonwealth v Kulman retused by Prvy Council Kulman v Commonwealth, (1925) 32 A LR 18 1) Section cited in support of validity of s 21AA of the Commonwealth Conclusion and Arbitration Act 1904-1914, under which a single Justice of the High Court is given jurisdiction to determine viter also whether an industrial dispute exists. Federated Enginedriver's and Firemen's Sissociation of Australova v. Colonial Sugar Refiring Co Ltd., (1916) 22 CLR 103, at pp 113, 122-3, 22 A LR 328, at pp 331, 334-5.

384-5.

Per Higgins, J. Under this section Parliament could commit to a single Judge jurisdiction to grant prohibition under s. 75 (v). **Pederated Financedrivers* and Finemer's Association of Australiasia v Colonial Sugar Refining Co. Ltd., (1916) 22 C. L. R. 103, at p. 120., 22 A. L. R. 328, at p. 334.

Section cited in support of the view that the Pailiament of the Commonwealth has not general power to legislate so as to regulate the constitution and the jurisdiction of State Courts. **Le Mesurer v Connor (1929) 42 C.L. R. 481, at pp. 490, 498, (see also p. 511), 33 A. L. R. 41, at pp. 45, 46, (see also p. 51), 1. A. B. C. 97, at pp. 112, 114 (see also p. 127)

Section cited in support of validity of s. 5 (5) of the Financial Agreement Enforcement Act. 1932 New South Wates v. Commonwealth (No. 1), (1932) 46 C.L. R. 155, at p. 179., 38 A.L. R. 245, at p. 251

Trial by jury

80. The trial on indictment of any offence against any law of the Commonwealth(a) shall be by jury(b), and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State(c) the trial shall be held at such place or places as the Parliament prescribes.

North of Cases —(a) Meaning of "law of the Commonwealth" in this section discussed by High Court. R. v. Bernascom, (1915) 19 C L R. 629, 21 A L R. 86

(b) Held by the High Court that the inquiry authorized by the Australian Industries Preservation Act 1906-1907, s 15B, is not inconsistent with the right of trial by jury conferred by this section Huddart Parker & Co Pty Ltd v Moorehead, (1909) 8 C L R 330, 15 A L R 241

dart Parker & Co Pty Ltd v Moorehead, (1909) 8 C L R 330, 15 A L R 241

(c) Question whether offences committed on property acquired by the Commonwealth are committed within the State within the meaning of this section, discussed by Full Court of the Supreme Court of New South Wales. R v Bumford. (1901) 1 S R (N S W) 337

Held by the High Court that this section does not restrict the power conferred on the Commonwealth Parliament by s. 122 to make laws for the government of a Territory, whether that power is exercised directly or through a subordinate legislature R v Bernuscona, (1915) 19 C.L R 629, 21 A L R 86

As to the application of this section if the Inter-State Commission is a Federal court, see New South Wales v Commonwealth, (1915) 20 C L R 54, at p 90, 21 A L R 128, at p 144

As to whether this section is a bar to the taking of an appeal to the High Court from a verdict of acquittal by a jury, see R v Snow, (1915) 20 C L R 315, at pp 323, 328-9, 339-41, 345, 351-2, 358, 365, 374-5, 21 A L R 382, at pp 384, 386, 390-2, 395, 397, 400, 404

Held by the High Court that the Crimes Act 1914-1926—which provides in certain events for trial of offences summarily—does not conflict with this section, and that Parliament could make the offence under s 20K of the Crimes Act 1914-1926 punishable summarily R v Archdall and Roskruge, Exparte Carrigan and Brown, (1928) 41 C L R 128, 34 A L R 297

CHAPTER IV. FINANCE AND TRADE.

Consolidated Revenue Fund

CHAPTER IV.—FINANCE AND TRADE.

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth^(a) in the manner and subject to the charges and liabilities imposed by this Constitution(b).

NOTES OF CASES—(a) Held by the High Court that the Parliament of the Commonwealth has authority to appropriate money out of the Consolidated Revenue for a specific purpose, such money being money "appropriated for the purposes of the Commonwealth" within the meaning of this section; and money so appropriated, though not yet actually disbursed, is "expenditure" within the meaning of s. 8, and is not "surplus revenue" within the meaning of s. 94 until the actual disbursement of it for that purpose is no longer lawful or no longer thought necessary by the Government New South Wales v. Commonwealth, (1908) 7 C. I. R. 179, 14 A. I. R. 625 See also New South Wales v. Bardolph, (1934) 52 C. I. R. 455; 41 A. I. R. 22,



(b) As to the necessity for Parliamentary authority for the validity of a contract which involves the provision of funds by Parliament, see The Commonwealth v Colonial Combing, Spinning and Weaving Co. Ltd., (1922) 31 ('LR 421, at p. 448, 29 ALR 138, at p. 146

As to whether this section enables the Commonwealth to appropriate moneys for any purpose deemed sufficient by the Commonwealth, irrespective of its relation to the legislative and executive authority conferred upon Commonwealth organs by other sections of the Constitution, see Altorney-General for Victoria v Commonwealth, (1935) 52 ('LR 533, at pp 559-00, 567-8, 41 ALR 246, at pp

82(a). The costs, charges, and expenses incident to the collection, Expenditure management, and receipt of the Consolidated Revenue Fund shall form charged thereon the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

Notes of Cases—(a) Section cited by High Court in support of the distinction drawn by the Court between "payment" and "expenditure" in deciding that the "expenditure" of the Commonwealth which must be taken into account in determining the surplus revenue of the Commonwealth is not limited to moneys which have actually been paid out **New South Wales v Commonwealth*, (1908) 7 C L R 179, at pp 194, 201, 206, 14 A L R 625, at pp 630, 633, 635

83. No money shall be drawn from the Treasury of the Common-Money to be wealth except under appropriation made by law(a).

appropriated by

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

NOTES OF CASES—(a) Per Griffith, C I S 84 of the Constitution operates as a charge upon Commonwealth revenue of a sufficient sum to give effect to the section, and as an "appropriation made by law" within the meaning of this section. Bond v Commonwealth, (1903) 1 C L R 18, at p 22, 9 A L R 254, at p 256, 25 A L T. 200, at p 204.

84. (a) When any department of the public service of a State becomes Transfer of transferred to the Commonwealth(1), all officers of the department shall officers. become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights(b), and shall be entitled to retire from office at the time, and on the pension or retiring allowance(6), which would be permitted by the law of the State(d) if his service with the Commonwealth were a continuation of his service with the State(e). Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the

State bears to his whole term of service(f), and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

General Notes —(1) For list of the Departments of State which have been transferred to the Commonwealth, see s. 69 and notes thereon

Notes of Cases—(a) Held by the High Court that this section operates as a charge upon the Commonwealth revenue of a sufficient sum to give effect to it, and as a sufficient authority to the Executive Government of the Commonwealth to make the necessary payments to the persons entitled to reveive them Bond v Commonwealth, (1903) 1 C L R 12, 9 A L R 254, 25 A L T 200

Per Griffith, C J S 89 (i) (a) of the Constitution being a temporary provision, must, as to cases within a 84, be read as a proviso to s 81 New South Wales v Commonwealth, (1908) 6 C L R 214, at

As to the extent to which s 67 governs the operation of this section, see Bradshaw v Commonwealth, (1921) 36 C L R 585, 31 A L.R 441, Edwards v Commonwealth, (1935) 54 C L R 313, at p 323, 42 A L R 95 at p 99

(b) Held by the High Coart that upon the transference of a department of a State to the Commonwealth, the rights of the officers of the department are definitely ascertained and settled, and an officer in such a department who is retained in the service of the Commonwealth preserves all his "existing and accruing rights." Bond v The Commonwealth, (1903) C L. R. 13, 9 A.L. R. 254 2.0 A.L. T. 200

Held by the High Court that "evisting and accruing rights" include a right to be retained in the service at the officer's existing rate of remuneration until his engagement is terminated or its conditions are varied by a competent authority Bond v The Commonwealth, (1903) L. R. 13, 9 A.L. R. 234, 25 A.L. T. 200

service at the other's existing rate of reintinetation units engagement is semimated of the Continuous are varied by a competent authority. Bond v. The Commanwealth, (1903) 1. C.L.R. 13., 9. A.L.R. 234, 25. A.L.T. 200

Held by the High. Court that, notwithstanding the provisions of the Public Service. 4ct 1900, (Vict.), a 19, the Parliament of the Commonwealth may reduce the salaries of officers of Victorian Government Departments transferred with those Departments to the Commonwealth. Courses v. Commonwealth (1906); 3. C.L.R. 529, 1.2. A.L.R. 175

High by the High Court that the right to a gratuity calculated in accordance with the scale provided by s. 60. (ii) of the Public Service Act 1895 (N.S.W.) is, in the case of those officers transferred from the State to the Commonwealth whose service brought them within the provisions of that section, an existing or accuming right." within the meaning of this section. New South Wales v. Commonwealth, (1908) 6. C.L.R. 214

Quaere, per Higgins, J. Whether a gratuisty under s. 60. (ii) of the Public Service Act 1895 (N.S.W.) in the case of the compulsory retirement of an officer transferred to the Commonwealth, comes within the provisions for apportionment between State and Commonwealth contained in this section, or as to whether the provision as to apportionment is not limited to cases where officers retire voluntarily. New South Wales v. Commonwealth, (1908) 6. C.L.R. 214, at pp. 240-1

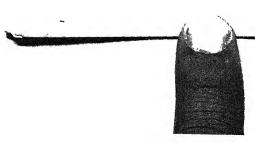
As to whether this section protects from peremptory dismissal an officer of the Department of Defence, Taxmania, transferred to the Commonwealth with his Department on 1st March, 1901 (there being at that time to Public Service Act in Taxmania), see Omani v. Commonwealth, (1915) 11. Tas. L.R. 110, at p. 115.

Tammana, transferred to the Commonwealth with his Department on 1st March, 1901 (there being at that time no Public Service Act in Tasmania), see *Omant v Commonweelth*, (1915) 11 Tas. 1 R 110, at p. 115.

Held by the High Court that, under the *C_vul Service Act 1874 (S. A.) and the C_vul Service *Amendment Act 1881 (S. A.) age, apart from incapacity, was not a ground for removal of an officer of the C_vul Service and an officer having attained the age of sixty-five years could not on that ground alone be lawfully refired or removed from office* and that that was an "existing right" (within s 60 of the *Commonwealth Public Service Act 1874 (S. A.) and the *Commonwealth Public Service then enjoyed. *Per Higgins, J.* It was also an existing right within the meaning of s 84 of the Constitution. *Le Leu v Commonwealth*, (1921) 29 U.I. R. 305; 27 A.I. R. 242.

Held by the High Court (Knox, C.J., Higgins and Starke, J.J.; Isaacs, J., dissenting) that in estimating the damages to which a transferred other having rights under this section and wrongfully removed from office is entitled, the relevant salary is that which he was receiving at the date of his removal, and not that which he was receiving at the date when the Department was transferred to the Commonwealth or the maximum salary to which under the law of the State from which he was transferred he could have attained if he had remained in the Public Service of that State *Lucy v. Commonwealth*, (1923) 33 C.I. R. 229

As to whether, in the case of a Queensland officer subject to the *Public Service Act 1876, who is transferred to the Commonwealth Public Service, the right to remain in the Public Service until he attains the age of sixty-five years is an "existing right" within the meaning of s 60 of the *Commonwealth* Public Service, the right to remain in the Public Service until he attains the age of sixty-five years is an "existing right" within the meaning of s 60 of the *Commonwealth*, 1902-1918; and as to whether the right given by the last-mentioned secti



Commonwealth and who was then receiving the maximum salary of his class had, before his formal classification under the Commonwealth Public Service Act 1902 came into operation, received from time to time increments to his salary, did not confer any right upon him to continue to receive the increased salary or preclude the Public Service Commissioner from allotting to him any salary, so long as it was equal to or greater than that which he was receiving at the date of the transier. Schedich v Commonwealth, (1926) 38 C L E. 518, 32 A L B 354

Held by the High Court (Ruch, Dixon, Evatt and McTiernan JJ.), reversing the decision of Starke, J, that, in view of the provisions of this section as to the preservation by a transferred officer of his existing and accrumg rights, a South Australian transferred officer may not be retired from the service index so 20 and 29 of the Commonwealth Public Service Act 1922-1934 upon the ground that there was employed a greater number of officers of his particular classification than was necessary for the efficient working of that branch, but only under s. 14 of the Civil Service Act 1874 (S.A.) on the ground that it was necessary to diminish the number of officers in the Department Edwards v Commonwealth, (1925) 54 C.L.R. 313; 42 A.L.R. 85

(c) Held by the High Court that this paragraph relates only to the first operation.

(a) Held by the High Court that this paragraph relates only to officers in the Public Service of a State who, at the time of their transfer to the Public Service of the Commonwealth, against the State based on continuous employment in the Public Service of the State from a late prior to the establishment of the Commonwealth. Trover v. Commonwealth, (1923) 32 C.L.R. 585.

(d) Held by the High Court (Rich, Starke, Dixon and Evatt, JJ., McTheinan, J., desenting) that the words "which would be permitted by the law of the State "refer to the law of the State in force at the time of the transfer, and that an officer who was transferred to the Commonwealth was not entitled to the benefits conferred by a State law passed after ins transfer. Pemberton v. Commonwealth, (1933) 49 C.L.R. 382, 39 A.L.R. 282.

(e) Held by the High Court that, where a Department of the Public Service of a State has been transferred to the Commonwealth, this section gives to an officer of the Department who has been retained in the service of the Commonwealth the right on retirement to a pension of the amount to which, if he had continued in the service of the State, he would have been entitled under the law of the State at the time of his retirement, and the amount cannot thereafter be reduced by Commonwealth or State legislation Flint V. Commonwealth, (1932) 47 C.L.R. 274, 38 A.L.R. 391.

(1) Held (in the case of a New South Wales transferred officer returns from the Commonwealth during

(f) Held (in the case of a New South Wales transferred officer returning from the Commonwealth during the period while the method of accounting set forth in 8 89 was in force) that any gratuity payable to the officer under 8 60 (ii) of the Public Service Act 1895 is apportionable between the Commonwealth and the State under 8 84 of the Constitution, the portion payable by the Commonwealth being thereafter chargeable against the State as expenditure incurred solely for the maintenance and continuance of the Department as at the time of transfer New South Wales v Commonwealth, (1908) 6 C.I. R. 214

85.(a) When any department of the public service of a State is trans- Transfer of ferred to the Commonwealth-

- (i.) All property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth^(b); but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be
- (ii.) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:
- (iii.) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section(c); if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:
- (iv.) The Commonwealth shall, at the date of the transfer, assume the current obligations (a) of the State in respect of the department transferred.

Notes of Cases—(a) Per Latham, C.J. This section does not confer on the Parliament of the Commonwealth power to legislate with respect to the subject-matter with which the transferred Departments deal R v. Brislan Exparte Williams, (1935) 54 C L R 262, at p 275, 42 A L R. 45, at p. 49.

(b) Held by the Full Court of the Supreme Court of New South Wales (Owen and G B Simpson, JJ.; Stephen, J, dissenting) that, even though, under this section, the area upon which a post office is built

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is vested in the Commonwealth, s 52 of the Constitution does not have the effect of giving the Commonwealth exclusive power to make laws in respect of that area, so as to negative the continued application to it of the Postage Act of the State R v Bamford, (1901) 1 S R (N S W) 337. Held by the Full Court of the Supreme Court of Victoria that this section does not exempt a Commonwealth officer from the payment of State income tax on his official salary earned in any place acquired by the Commonwealth in pursuance of this section In re Income Tax Acts (No. 4), Wolfaston's Case, (1902) 28 V L R 357, at p 391, 8 A L R 188 at p 198, 24 A L T 63 at p 71

Per Griffith, C.J The language of this section expresses accurately and unmistakably the change in constitutional ownership of the property to which the section applies Municipal Council of Sydney v. Commonwealth, (1904) 1 C L.R. 208, at p. 231; (see also per Barton, <math>J., at p 235), 10 A L.R. (C.N.)

Held by the High Court (Knox, CJ. Isaacs and Starke, JJ, and—save that he dissented as to the inclusion of royal metals—Highns, J) that all the lands to which this paragraph applied, including the royal metals and other minerals therein, vested in the Commonwealth freed and discharged from all reservations, rights, royalties, conditions and obligations of any kind whatsoever to the State, subject to compensation pursuant to paragraph (iii) Commonwealth v. New South Wales, (1923) 33 C L.R 1, 29 A L.R 401

- (c) See note on Commonwealth v New South Wales, (1923) 33 C L R 1, 29 A L R 401 (in note (b) supru).
- (a) As to whether obligations as to exemption from taxation or recouprient of taxation, which are imposed on a State under agreement, made with a company before Federation, are 'current obligations' within the meaning of this section, see Eastern Ertension, Australianua and China Telegraph Co. Ltd v. Federal Commissioner of Taxation, (1923) 33 C.L.R. 426, at pp 436-43, 447-9, 451; 30 A.L.R. 144, at pp 146-8, 150-2
- 86. (a) On the establishment of the Commonwealth, the collection and control of duties of customs and of excise(b), and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

Notes of Cases—(a) Held by the High Court that, in view of this section, and as 52 (ii) and 90 the Customs Act 1901 was validly enacted, and applies to goods imported by the Government of a State as well as to those imported by private persons—R v Sutton, (1908) 5 C.L R 789, 14 A L R 505—(b) Held by the High Court that brewers' licence fees under s. 71 of the Liquor Act 1898 (N.S.W.) (No 18 of 1898) are not duties of excise within the meaning of this section—Meaning of "duties of excise" discussed. Petersweld v. Bartley, (1904) 1 C L R 487, 10 A L R (C.N.) 65—Held by the High Court that an Act purporting to impose duties of excise on certain manufactured goods, with a proviso that the Act shall not apply to any such goods manufactured under satisfactory conditions of isbour, is not in substance an Act to impose duties of excise, but an Act to regulate the conditions of manufacture of the goods—R. v Barger; Commonwealth v. McKay, (1908) 6 C.L R 41; 14 A J.R. 374

As to the meaning of "duties of excise" see John Taufag & Sone Lide and South's Navagages Lide.

As to the meaning of "duties of excise", see John Furrfax & Sons Lid and Smith's Newspapers Ltd. New South Wales, (1927) 39 C L R 139, 33 A L R 84

87. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides(1), of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure (a).

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest(a) on debts of the several States taken over by the Commonwealth.

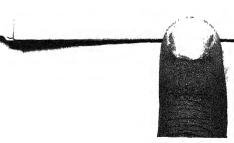
GENERAL NOTES —(1) The Parliament "otherwise provided" in pursuance of this section, by the Surplus Revenue Act 1910, which provided (section 3) for the cesser of s. 87 from and after 31st December, 1910, and (sections 4-6) for certain payments to the States

NOTES OF CASES —(a) Meaning of the expressions "applied annually by the Commonwealth towards its expenditure" and "applied towards the payment of interest" discussed by High Court New South Wales v. Commonwealth, (1908) 7 C L R 179, at pp. 193-4, 197, 202, 14 A.L R. 625, at pp. 630, 201 400

Uniform duties of customs

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth (1) (a).

GENERAL NOTES.—(1) By the Customs Tariff 1902 (No. 14, 1902) the Parliament declared that the time of imposition of uniform duties of customs was 8th October, 1901.



Payment to States before

NOTES OF CASES —(a) Question as to the true date of the imposition of uniform duties discussed by Full Court of the Supreme Court of Queensland — Colonial Sugar Refining Co Ltd v Irving, 1903 St R Qd. 261. See also decision of Privy Council on appeal — Colonial Sugar Refining Co Ltd v Irving, 1906 A C

360. Imposition of uniform duties of customs as from 8th October, 1901, upheld by the High Court Taxmana v Commonwealth and Victoria, (1904) 1 C.I. R 329, 10 A I. R (C.N.) 41

Scope of section discussed by High Court Elliott v Commonwealth, (1936) 54 C.L.R 657, at p 667;
42 A L.R. 174, at p 176

- 89. Until the imposition of uniform duties of customs—
 - (i.) The Commonwealth shall credit to each State the revenues uniform duties. collected therein by the Commonwealth(a).
 - (ii) The Commonwealth shall debit to each State-
 - (a) The expenditure^(b) therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth(c);
 - (b) The proportion of the State, according to the number of its people, in the other expenditure(b) of the
- (iii.) The Commonwealth shall pay to each State month by month the balance^(d) (if any) in favour of the State.

NOTES OF CASES—(a) Held by the High Court that the State of Tasmania was not entitled under the Constitution to be credited with duties of customs collected by the Commonwealth in the State of Victoria between 1st January, 1901, and 8th October, 1901 (the date of the importion of uniform duties of customs), and passing after the latter date therefrom into the State of Tasmania for consumption Section 89 discussed by High Court Tasmania v Commonwealth and Victoria, (1904) 1 (*LR 329, at pp 334, 340-4, 346-8, 352-8 360-3, 10 A.L.R. (C.N.) 41

- (b) Keld by the High Court that money appropriated by Parliament out of the Consolidated Revenue for a specific purpose, although not yet actually disbursed, is "expenditure" within the meaning of this section. New South Wales v Commonwealth, (1908) 7 CLR 179, 14 ALR 625
- (c) Held by the High Court, in the case of a New South Wales officer transferred with his Department to the Commonwealth and subsequently retired compulsorily, that the share (attributable to the Commonwealth) of the gratuity payable to the officer under s 60 (ii) of the Public Service Act 1895 (N S W) is, during the operation of this section, to be debued to the State under sub-paragraph (a), as being expenditure of the Commonwealth incurred solely for the maintenance or continuance of the Department as at the time of transfer. New South Wales v. Commonwealth, (1908) 6 C L R 214.
- (d) Held by the High Court that this section does not require exact "balances" to be struck at the end of each month, but that the monthly payments are to be of approximate amounts, having regard to the probable total financial operations of the year New South Wales v Commonwealth, (1908) 7 C.I. R. 179, 14 A.I.R. 625

90.(a) On the imposition of uniform duties of customs the power of Exclusive power the Parliament to impose duties of customs(b) and of excise(c), and to grant bounties(d) on the production or export of goods, shall become exclusive. (e)

over customs,

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise. (f) or offering bounties on the production or export of goods, shall cease to have effect, but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

Notes of Cases.—(a) Held by the Full Court of the Supreme Court of Queensland and by the Privy Council that this section does not prohibit Parliament from imposing duties of excise until uniform duties of customs have been imposed. Colonial Sugar Refining Co Ltd v. Irving, 1903 St R Qd 261,

Held by the High Court that, in view of this section, and ss 52 (ii) and 86, the Customs Act 1901 was validly enacted, and applies to goods imported by the Government of a State as well as to those imported by private persons. A v. Sutton, (1908) 5 C L R 789, 14 A L R 505

Per Ignacs, J.. This section emphasises the view that is 152 of the Customs Act 1901-1910—which provides for an adjustment of agreements for the sale or delivery of goods in consequence of alterations in the rate of customs duty—is an incidental power resident in the Parliament of the Commonwealth in conneation with customs and excise taxation. G C Crespin & Son v Colac Co-operative Farmers Ltd. (1916) 21 C L R 205, at p 221, 22 A L R 86, at p 91

Section cited in support of the view that is 92 is not limited to use restrictions, as the power of the States to impose customs duties on the inter-state entry of goods was prevented by this section. Duncan v. Queensland, (1916) 22 C L R 556, at pp 572, 618, 636, 22 A L R 465, at pp 472, 490, 497, W. & A McArthur Ltd v Queensland, (1920) 28 C L R 550, at pp 553-4, 557, 561-5, 565-7, 27 A L.R 130, at pp 139-40, 141, 143, 144, Roughley v New South Wales; Exparte Beaus, (1928) 42 C L R. 162, at p 193, 35 A.L R 1, at p 11

(b) Per Higgins, J Customs taxation is solely a matter for the Commonwealth Attorney-General

193, 35 A.L.R. 1, at p. 11

(b) Per Higgins, J. Customs taxation is solely a matter for the Commonwealth. Attorney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5 C.L.R. 818, at p. 853, 14 A.L.R. 516, at p. 528

Meaning of "duties of customs" discussed by High Court. Commonwealth and Commonwealth Oil Refineries Ltd. v. South Australia, (1926) 38 C.L.R. 408, 23 A.L.K. 40

Held by the High Court (Knox, C.J., Higgins, Gavan Duffy and Starke, J.J.) that the Stock Act 1901 (N.S.W.) which prohibits or regulates the introduction of cattle into New South Wales on account of real or supposed disease, does not impinge upon the customs power of the Commonwealth. Exparte Nelson (No. 1), (1928) 42 C.L.R. 209, at pp. 218, 249, 35 A.L.R. 21, at pp. 22, 35

See also reference to Vaccum Oil Co. Pty. Ltd. v. Queensland, (1934) 51 C.L.R. 108, 40 A.L.R. 154; in note (c) hereunder.

Held by the High Court that the charge imposed by the Commissioner for Road Transport and Tramways, NSW, under 3 37 of the State Transport (Co-ordination) Act 1931 (NSW) is not a duty of customs within the meaning of this section O Galpin Ltd v Commissioner for Road Transport and Transways (NSW) (1935) 52 CLR 189, 41 ALR 138

Transays (N S W.) (1935) 52 C L R 189, 41 A L R 138

(c) Held by the High Court that brewers' licence fees under s 71 of the Laguar Act 1898 (N S W) (No 18 of 1898) are not "duties of excise" within the meaning of this section. Meaning of "duties of excise" discussed. **Peterswald v Bantley (1904) 1 C L R 497, 10 A L R (C N) 65

Held by the High Court that an Act purporting to impose duties of excise on certain manufactured goods, with a proviso that the Act shall not apply to any such goods manufactured under satisfactory conditions of labour, is not in substance an Act to impose excise duties, but an Act to regulate the conditions of manufacture of the goods. R. v Barger, Commonwealth v McKay, (1908) 6 C.L. R 41;

conditions of labour, is not in substance an arb to impose cause attacks, and accordance conditions of manufacture of the goods R. v Barger, Commonwealth v McKay, (1908) 6 C.L. R 41; 14 A.L. R 374

Meaning of "duties of excise" discussed by High Court Commonwealth and Commonwealth Oil Refineries Lid v South Australia (1926) 38 C.L. R. 408, 33 A.L. R. 40

Held by the High Court that the tax of one-half penny imposed by the Finance (Newcpapers Taxation) Act 1926 (N.S. W) upon each copy of a newspaper issued or sold for transmission to a place outside New South Wales) is a duty of excise within the meaning of this section, and that the Act is beyond the power of the Parliament of New South Wales and is invalid, as are also as 2, 3, 5, 6, and 7 of the Finance (Taxation Management) Act 1928 (N.S. W.) which provide machinery for enforcing the provisions of that Act John Farfax & Sons Lid and South's Newspapers Lid v. New South Wales, (1927) 39 C.L. R. 139, 33 A.L. R. 84

Held by the High Court that the provisions of the Milk Act 1931 (N.S. W.), and the provisions of sa 23 (1), 26 (1), (3) and 28 (2) in particular—which provide for a Board fixing a minimum price for milk, acquiring it, selling it, deducting from the proceeds costs, charges, &c, and paying the dairyman on the basis of the minimum price fixed—do not contain a scheme which involves the imposition of a duty of excise contrary to this section. Crothers v Sheii, (1933) 49 C.L. R. 39

Held by the High Court that the Motor Spirit Vendors Act 1933 (Q.)—which by 3 provides that no person should in Queensland sell for delivery in Queensland any motor spirit which was at the time of sale situate in Queensland sell for delivery in Queensland any motor spirit which was at the time of sale situate in Queensland sell for delivery in Queensland, 1934 51 C.L. R. 30 provides that no Preson should in Queensland, (1934) 51 C.L. R. 154 in note (c) supra

(e) As to the power of the Commonwealth to bring a suit under s 75 (iii) against a State for a breach of this section, see Commonwealth v. New South Wales, (1923) 32 CLR. 200, at p 213; 29 ALR 289.

of this section, see Commonwealth v. New South Wales, (1923) 32 C L R. 200, at p 213; 29 A L.R. 289. at p 294.

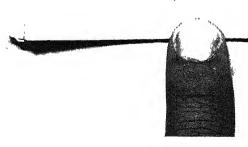
Held by the High Court that the tax imposed by s 8 of the Customs Tariff (Industries Preservation) Act 1921–1922—which provides for a tax being imposed upon the publication by the Minister of a notice in the Gazette as to depreciation of currency—is imposed by the Parliament of the Commonwealth, and is not an infringement of the provision in this section that the power of the Parliament to impose duties of customs shall become exclusive Meaning of "exclusive" in this section discussed. Noti Bros. & Co Lid v. Barkley, (1925) 86 C L R. 20; 31 A L.R. 256

Held by the High Court (Knox, CJ, Isaacs, Higgins, Powers, Rich and Starke, JJ, Gavan Duffy, J., dissenting) that the Taration (Motor Spirit Vendors) Act 1925 (S.A.) is invalid on the ground that it violates the provision in this section that, on the imposition of uniform duties of customs, the power of the Parliament of the Commonwealth to impose duties of customs and of excise shall become exclusive. Commonwealth and Commonwealth Oil Refineries Ltd. v. South Australia (1926) 38 C.L.R. 408; 33 A.L.R. 40

Held by the Full Court of the Supreme Court of Queensland that a scheme of price-equalization set up, in the butter industry, in pursuance of the Primary Producers' Organization and Marketing Acts, 1926 to 1932, (Q), was not a provision for the payment of bountes and did not intringe this section. A U Stunro & Sons Pry Lid v. Sheehy, 1934 St.R Qd 251.

Held by the High Court that the State Transport (Co-ordination) Act 1931 (N.S.W.), and the regulations thereunder, and the administration thereof as disclosed by the evidence, and particularly by the terms of the licences (as set out in the note relating to Duncan and Green Star Trading Co Pty Lid. v Vizzard on p 87 of this volume under s. 92) do not contravene this section Duncan and Green Star Trading Co Pty. Ltd. v. Vizzard, (1935) 53 C.L.R. 493

(f) Held by the Full Court of the Supreme Court of South Australia that those portions of the Distillation Act 1884 (S.A.), which regulate the internal trade of the State are within the exclusive police power of the State, and have not been annulled by the joint effect of the Commonwealth Constitution, particularly ss. 52 and 90, and the imposition of uniform duties of customs. Robinson v. Hall, 1906 S.A.L.R. 16.



91. Nothing in this Constitution prohibits a State from granting Exceptions as to bountles. any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution(1), any aid to or bounty on the production or export of goods.

GENERAL NOTES —(1) No consent had, up to the date of the preparation of this volume, been granted by the Houses of the Parhament under this provision.

92. (a) On the imposition of uniform duties of customs, trade, commerce, and intercourse(b) among the States, whether by means of internal weslth to be carriage or ocean navigation, shall be absolutely free(c).

But^(d) notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable (e) on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation(f)

Notes of Cases—(a) Question whether s. 92 binds the Commonwealth discussed by High Court-Fox v Robbins, (1908) 8 C L R 115, at p 128; 15 A L R. 112, at p 116, R v Smithers Exparte Benson. (1912) 16 C L R 99, at p 117, 19 A L R 209, at pp 214-5, New South Wales v Commonwealth, (1915) 20 C L R 54, at pp. 66, 79, 101, 105; 21 A L R 128, at pp 135, 140, 148, 149, Foggat Jones and Co Ltd v New South Wales, (1916) 21 C L R 357, at p 365; 22 A L R 313, at p 316, Farrey v Burvett, (1916) 21 C L R 433, at p 444, 22 A L R. 201, at p 210, Duncan v Queensland, (1916) 22 C L R, 556, at pp 572-3, 593-4, 616, 620, 624, 644, 22 A L R. 465, at pp 472-3, 480-1, 489, 491, 492, 500; W d A McArthur Ltd v State of Queensland, (1920) 28 C L R 530, at pp 556-8 562-3, 566-8, 27 A L R 130, at pp 140-1, 143, 144-5, Exparte Nelson (No. 1), (1928) 42 C L R 200, at p. 226, 35 A L R 21, at p 26, Huddart Parker Ltd v Commonwealth, (1931) 44 C L R 402, at pp 522, 529, 37 A L R 23, at pp 23, 33, R. v Vezzard Exparte Hill, (1933) 50 C L R, 30, 40 A L R 16, 0 Glipin Ltd v. Commissioner for Road Transport and Transmays (N. S.W.), (1935) 52 C L R 189, at p. 21, 41 A L R 138, at p 144. Held by the High Court that the validity of a Commonwealth Act on of regulations made thereunder cannot be attacked on the ground of interference with freedom of interisate trade and commerce and that this section whether s. 92 is binding on the Commonwealth, (1928) 41 C L R 442. Question whether s. 92 is binding on the Commonwealth, (1928) 41 C L R 184. Question whether s. 92 is binding on the Commonwealth, (1928) 41 C L R 183. Reading of this section with a 112 discussed by High Court W & A McArthur Ltd v State of Queensland, (1920) 28 C L R 570, 41 A L R 275 Bit, on appeal, held by the Privy Council that this section does not bind the Commonwealth James v Commonwealth, (1935) 52 C L R 570, 41 A L R 275 Bit, on appeal, held by the Privy Council that this section of this section with s 112 discussed by High Court W & A McArthur Ltd v State of Queensland, (1920) 28 C

(b) Meaning of word "intercourse" discussed by High Court R v Smithers Ex parte Benson (1912) 16 C.L R. 99; 19 A L R 209, Duncan v. State of Queensland, (1916) 22 C L.R 556, 22 A L R.

(1912) 16 C.L.R. 99; 19 A.L.R. 209, Dinean v. State 5, 2000.

Meaning of words "trade, commerce and intercourse" discussed by High Court W. & A. McArthur, Ltd. v. State of Queensland, (1920) 28 C.L.R. 530, at pp 546-50, 561-8, 567-9; 27 A.L.R. 130, at pp 136-8, 142-3, 145-6, O. Gilpin Ltd. v. Commissioner for Road Transport and Transways (N.S.W.) (1935) 52 C.L.R. 189, at pp 204, 211, 41 A.L.R. 138, at p 144, James v. Commonwealth, 1936 A.C. 578; 55 C.L.R. 1; 42 A.L.R. 333

As to whether the expression "trade and commerce" in s. 51 (i) has a wider range than in this section, see James v. Commonwealth, 1936 A.C. 578, 55 C.L.R. 1; 42 A.L.R. 333.

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(c) Held by the Supreme Court of Tasmania (Clark, J.) that the Income Tax Act 1902 (Tas) —which by paragraph (i) of s 32 fixed a minimum taxable amount of the income of a company not having its head office or chief place of business in Tasmania—is not repugnant to this section. In re the Australiana Audomatic Wrighing, Machine Co., (1905) 1 Tas. L.R. 112. Per Clark, J. Before a tax can be regarded as a violation of this section it must be equivalent to a tax upon the importation or exportation of articles of commerce from one State to another, or to a tax upon the transmission of information or messages from one State to another. Ibid. Question as to when goods which have been the subject of interstate trade cease to be such discussed by Stephen J. (Supreme Court of New South Wales). Exparte Beath. Re Philipson, (1932) 49 W.N. (N.S.W.) 73.

Held by the High Court that a law of a State which, for a licence authorizing the sale of wine manufactured from fruit grown in any other State, requires a greater fee to be paid than for a licence authorizing the sale of wine manufactured from fruit grown in the first-mentioned State, is contrary to the provisions of this section, and is, therefore, to the extent at least of the difference between the rees so required to be paid, invalid. Fox v. Robbins, (1908) 8.C. L.R. 115. [15.]. Decision cited by Privy Council with approval. Jumes v. Commonwealth. 1936 A.C. 578, 55.C.L.R. 1, 42.A.L.R. 333.

Held by the Full Court of the Supreme Court of Tasmania that a State has full authority to make laws for the control of the sale of liquor whether to be supplied from outside that State or not, and that such authority is not an interference with this section. Condain v. Wutts, (1911) 7. Tas. L.R. 40.

Held by the High Court that s. 30 the Influx of Criminals Privation Act 1903 (N.S.W.)—which provides in effect that any person who has been convicted in any other State of an offence for which he was liable to suffer death or to be imprisoned for one year of longer, is guilty of an offe

New South Wales before the lapse of three years after the fermination of any imprisonment surrect by him—si invalid on the ground that it is an interference with freedom of intocourse within the meaning of this section, see R v Smithers Exparte Benson, (1912) 16 CLR 99, 18 ALR. 209 Decision cited by Frryy Council with approval James v. Commonwealth 1936 AC 578, 55 CLR 1, 42 ALR. 338

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481ed by the High Coart that the provisions of the Wheat Acquisition Act 1914 (N S W)—which gives the Government of New South Wales, and certain contracts for the sale of flour to be delivered after 1st January, 1915—do not violate this section, and that the Act is intra aires the Parliament of the State. New South Wales, and certain contracts for the sale of flour to be delivered after 1st January, 1915—do not violate this section, and that the Act is intra aires the Parliament of the State. New South Wales, 1915; 20 CL R 54, 21 ALR. 128

128 Decision discussed by Privy Council in James v. Coman, 1932 AC 542, 47 CLR 386, 38 ALR. 383; and in James v. Commonwealth; 708, 56 CLR 11, 42 ALR. 333

1384; and in James v. Commonwealth; 708, 56 CLR 11, 42 ALR. 333

1486 High Court (Griffith, CJ, and Barton, Isaacs and Ruch, JJ; Gevan Duffy, J., doubting) that so far as 5 (1) of the Meat Supply for Imperial Uses Act 1915 (N S W)—which declares that all stock and meat in any place in New South Wales are and have become and shall remain subject to the Act, and shall be held for the purposes of and shall be kept for the disposal of His Majesty's imperial Government in aid of the supplies for His Majesty's armies in the war—purports to authorize the Government in aid of the supplies for His Majesty's armies in the war—purports to authorize the Government of the West South Wales to prevent the Export of Government in a Court of the Meat Supply for Imperial Uses Act 1915 (NS W)—which declares that all stock and meat in Durana v. Queensland, (1920) 28 CLR. 530, 27 ALR 138.

1986 AC 578, 55 CLR 1, 42 ALR. 338

Held by the High Co

Held by the High Court (Knox, C.J., Isaacs, Rich and Starke, JJ.; Higgins and Gavan Duffy, JJ, dissenting) that Dancan v. State of Queensland (supra), 22 C.L.R. 556, 22 A.L.R. 465, was wrongly decided, and Foggatt Jones & Co. Ltd. v. New South Wales (supra), 21 C.L.R. 357, 22 A.L.R. 313, had been rightly decided W. & A. McArthur Ltd. v. State of Queensland, (1920) 28 C.L.R. 530; 27 A I. R

Meaning of words "absolutely free" discussed by High Court. W. & A. McArthur Ltd. v. State of Queensland, (1920) 28 C.L.R. 536, at pp. 550-6, 561-3, 567-9; 27 A.L.R. 130 at pp. 138-40, 142-3, 145-6; O. Gulpin Ltd. v. Commissioner for Road Transport and Tranways (N.S.W.), (1935) 52 C.L.R. 180, at pp. 205, 213; 41 A.L.B. 138, at pp. 141, 145. And by Privy Council in Janes v. Commonwealth, 1936 A.C. 578; 55 C.L.R. 1; 42 A.L.R. 333.



Nature of the restrictions imposed on the States by this section discussed by High Court W&A.

McArthur Ltd v State of Queensland, (1920) 28 C.L.R. 530, at pp. 561-2, 27 A.L.R. 130, at pp. 142-3.

And by Privy Council in James v. Commonwealth, 1936 A.C. 578, 55 C.L.R. 1, 42 A.L.R. 333.

Question whether a Stat. Act purporting to place restrictions on trade generally without express words of distinction can be treated as effectively restricting intra-state trade, discussed by High Court. W&A McArthur Ltd v State of Queensland, (1920) 28 C.L.R. 530 at pp. 558-9, 27 A.L.R. 130, at pp. 141-2 Heid by the Privy Council that the word "fee" does not necessarily connote the absence of discrimination between interstate and intrastate trade James v. Commonwealth, 1936 A.C. 578; b5 C.L.R. 1, 42 A.L.R. 338.

As to whether s. 7 of The Frust Marketing Organization Act of 1923 (Q) which provides that the Committee of Direction of Fruit Marketing shall take control of the marketing of all fruit, would, if it conferred an exclusive power to seli, be invalid as contravening this section, see Commutee of Direction of Fruit Marketing v Collinia, (1925) 86 C.L.R. 410, 31 A.L.R. 322.

Held by the Full Court of the Supreme Court of Victoria that Regulations of the Melbourne Harbour T ust winch impose different wharfage races according as the goods are manufactured abroad, or manu-

Committee of Direction of Pints Marketing State according to the marketing of all trait, would, it is conferred an exclusive power to self, be unvalid as conference in the marketing of Direction of Pints Marketing v Column, (123) 36 C. It. 410, 31 A. It. 822.

Held by the Full Court of the Supreme Court of Victoria that Regulations of the Melbourne Harbour 7 ust which impose different whartage races according as the goods are manufactured abroad, or manufactured within Australas conflavement with the port of Melbourne from any port in Victoria within Port Phillip Finds to the provision of the Court of the Cou

p. 25.

Question whether the maxim "sains popule est suprema lex" can be taken to override this section, left open by Privy Council. James v. Commonwealth, 1936 A C 578; 55 C L R 1, 42 A L R 333

Held by the High Court (Knox, C.J., Gavan Duffy, Powers and Starke, JJ., Higgins, J., dissenting) that s. 158 (j) of the Stock Act 1901 (N.S. W.)—which provides that if any person does not when required give an inspector full information with respect to any imported stock, fodder, fittings or effects he shall be liable to imprisonment—does not violate the provision in this section as to trade, commerce and intercourse annoing the States being absolutely free. Exparte Nelson (No.1), (1923) 42 C L R 209, 35 A L R 21. As to the powers of a State after goods or stock have crossed the border see James v. Commonwealth, 1936 A.C 578; 55 C L R 1; 42 A L R 333

Held by the Full Court of the Supreme Court of Tasimana that ss. 48 and 49 of the Fisheries Act 1925, (Tas.), in their application to fishing vessels trading interstate, do not contiavene the provisions of this section as to the needom of trade and commerce between the States.

**Challenger v. Rae, (1929) 24 Tas. L.R. 25.

L.R 53
Held by the High Court (Knox, CJ, Gavan Duffy and Rich, JJ; Isaacs, J, dissenting) that s. 28
of the Dried Fruits Act 1921–1927 (S.A.)—which provides that, subject to s. 92 of the Constitution, and
for the purposes of the Dried Fruits Act or any contract made by the Dried Fruits Board constituted
under the Act, the Minister of Agriculture may, on behalf of His Majesty purchase or acquire compulsorily any dried fruits in South Australia grown and dried in South Australia—authorizes the
compulsory acquisition of such dried fruits, and does not violate the provisions of s. 92 of the Constitution
as being an interference with the freedom of "trade, commerce and intercourse among the States".

James v. Cowan, (1930) 43 C.L.R. 386; 36 A.L.R. 125 On appeal, held by the Privy Council that's.
20 of the Dried Fruits Act 1924 (S.A.) is invalid as being contrary to the provisions of s. 92 of the
Constitution, and that's. 28 (1.) of the Dried Fruits Act 1924-1927 (S.A.) does not authorize the Minister
of Agriculture for South Australia to make orders for the compulsory acquisition of dried fruits in that
State, grown and dried therein, for the purpose of forcing surplus dried fruit of the Australian market.

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Held, further, that such orders not only contravene s 92 of the Constitution, but also contravene s 28 of the Dried Frints Art itself, by which the powers given to the Minister are expressly made subject to s 92 of the Constitution. James v. Couan, 1932 A C. 542, 47 C L R 386, 38 A L R 334 Decision in James v. Couan discussed by Privy Council in James v. Commonwealth, 1936 A. C 578, 55 C.R. R 1,

In James v. Coman discussed by Prity Council in James v. Commonweals, 1936 A. C. 578, 58 C.I. R. 1, 42 A.I. R. 333

Held by the High Court (Gavan Duffy, C.J., Rich, Starke, Dixon and McThernan, JJ., Evatt, J., dissenting) that the provisions of the Primary Producers' Organization and Marketing Act 1926-1930 (Q.)—which provide for the creation of a Board in which may be vested the property of growers in any commodity—contravened this section, and that the Act, and the Order in Council which purported to effectuate the divesting of the property, were ineffectual to prevent growers of peanuts from disposing of them in interstate trade Peanut Board v. Rockhampton Haibour Board (1933) 48 C.I. R. 266; 39 A.I. R. 161 Decision cited with approval by Privy Council in James v. Commonwealth 1936 A.C. 578, 55 C.I. R. 42 A.I. R. 333

161 Decision cited with approval by fivy countries and examples of the Motor Car Act 1923-1930 (Vic)—which requires every motor car to be registered and to have separate identifying number—does not infringes 92 of the Constitution. Held, therefore, that a carner resident in New South Wales, who was driving on a public highway in Victoria a motor truck registered in New South Wales, but not in Victoria, and was at the time carrying goods from a town in New South Wales to Melbourne, was rightly convicted of an offence against s. 4. Willard v. Rawson, (1933) 48. C.L.R. 316, 39 A.L.R. 209. Decision discussed by Privy Council in James v. Commonwealth, 1935 A. 578, 55 C.L.R. 1, 42 A.L.R. 333.

Held by the Court of Review, N.S.W. (Thomson, D.C.J.) that s. 14 (2) of the Prevention and Relief

Held by the Court of Review, NSW (Thomson, D.C.J.) that s 14 (2) of the Prevention and Relief of Unemployment Acts 1930-32 (NSW)—under which "income" is, for the purposes of that Act, defined as including income derived by a resident of the State from a source outside the State—does not infringe this section. In rea Taxpayer, NSW, (1933) 2 A T.D. 326

Held by the High Court that the scheme of compulsory acquisition of milk under s 26 of the Milk Act 1931 (N S W)—which provides for the compulsory acquisition of milk supplied for consumption or use within the metropolitan milk distributing district of New South Wales—does not contravene the provisions of this section as to the freedom of interstate trade Crothers v Sheil, (1933) 49 C L R 399.

Held by the High Court (Gavan Duffy, CJ, Rich, Evatt and McTiernan, JJ; Starke and Dixon, JJ., dissenting) that the provisions of the State Transport (Co-ordination) .tet 1931 (NS W)—which make it an offence to operate in New South Wales a public motor velocite which is neither licensed by the Board nor exempt—did not contravene this section as interfering with the freedom of interstate trade, commerce and intercourse R v Vizzard Er parts Hul, (1933) f0 C l. R 30, 40 A L. R 16 Decision discussed by Privy Council in James v Commonwealth, 1936 A C 578, 55 C l. R 1, 42 A L R 333

Question whether this section precludes the Parliaments of the States from in any way regulating or controlling trade, commerce and intercourse among the States, discussed by High Court R v Vizzard: Ex parte Hill, (1933) 50 CLR 30, 40 A.L.R 16. And by the Privy Council James v Commonwealth, 1936 A C 578, 55 CLR 1; 42 A LR 333

Observations by the High Court on the tests to be applied in considering the question whether legision of a State infringes the provisions of this section R. v Vizzard Ex parte Hill, (1933) 50 U L R lation of a State infringes the provisions of this section 30, 40 A L R 16

Observations by Privy Council on the tests to be applied in considering the question whether legislation of the Commonwealth infringes the provisions of this section James v Commonwealth, 1936 A.C. 578. 55 C.L.R. 1, 42 A.L.R. 333.

Held by the High Court (Rich, Dixon, Evatt and McTiernan, JJ, Starke, J, dissenting) that the delivery in Queensland any motor spirit which was at the time of sale situate in Queensland unless he was the holder of a licence under the Act, and by s 6 requires every holder of a licence to purchase and pay at a prescribed rate for a quantity of power alcohol manufactured in Australia bearing a prescribed proportion to the quantity of motor spirit sold by him—contravenes this section, and, to the extent to which it does so, is invalid. Pacuum Oil Co. Pty. Ltd. v. Queensland, (1934) 51 CLR 108; 40 ALR 154. Decision cited with approval by Privy Council in James v. Commonwealth, 1936 AC 578; 55 CLR 1, 42 ALR 333

Held by the Full Court of the Secretary Council of the

Held by the Full Court of the Supreme Court of Queensland that neither the Primary Producers' Organization and Marketing Act, 1926 to 1932, (Q), nor the Order-in-Council passed thereunder providing unter also a price-equalization scheme in the butter-making industry, conflicted with this section A.C. Munro & Sons Pty Ltd. v Sheehy, 1934 St R Qd 251.

Held by the High Court (Gavan Duffy, C.J., Eich, Dixon, Evatt and McTiernan, JJ., Starke, J. dissenting) that, as framed, the Motor Spirit Vendors Act 1933 was not severable and was therefore wholly invalid. Vacuum Oil Co. Pty. Ltd. v. Queensland (No. 2), (1935) 51 CLR. 677, 41 A.LR. 114.

As to the effect of this section upon State laws which but for it might be continued in force under 107 of the Constitution, see Vacuum Oil Co. Pty. Ltd. v. Queensland (No. 2), (1935) 51 C.L.R. 677, at 691; 41 A.L.R. 114 Ser also James v. Commonwealth, 1936 A.C. 578; 55 U.L.R. 1, 42 A.L.R. 333

p 691; 41 A.L.R. 114 See also James v Commonwealth, 1936 A.C. 578; 55 °C. L.R. 1, 42 A.L.R. 333.

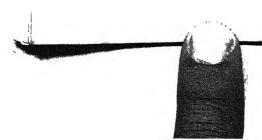
3. 4 of the Vegetation and Vine Diseases Act 1928 (Vict) empowers the Governor in Council of the State by proclamation to prohibit the importation, introduction or bringing into Victoria of any tree, plant or vegetable which is, in the opinion of the Governor in Council, likely to introduce any disease or insect into Victoria, and at any time to alter or revoke such pioclamation. Sub-section 3 makes it an offence to bring into Victoria any vegetable contiary to any prohibition contained in any proclamation. The Governor in Council, by a proclamation which recited that in his opinion the introduction of potatoes from Tasmania was likely to introduce disease into Victoria, prohibited the importation, introduction or bringing into Victoria of potatoes from Tasmania. The State of Tasmania and the Attorney-General thereof brought an action in the High Court against the State of Victoria and the Minister for Agriculture of that State for a declaration that the proclamation was invalid. The State of Tasmania did not itself trade in potatoes with Victoria. Held by the High Court as follows:—

(1) By Gavan Duffy, C J., Rich, Dixon, Evatt and McTiernan, JJ, that the proclamation was invalid because it contravened this section, and by Gavan Duffy, C.J., Evatt and McTiernan, JJ., also because it was not authorized by s. 4 of the Vegetation and Vine

invalid because in contravant was not authorized by s. 4 of the Vegetation and Vine Diseases Act; and

(2) By Starke, J., that the Vegetation and Vine Diseases Act did not contravene s 92 of the Constitution, but that the proclamation was invalid because it was not authorized by the

Tasmania v. Victoria, (1935) 52 C L R 157, 41 A L.R 157. Decision as to State Act having contravened this section cited with approval by Privy Council in James v. Commonwealth, 1936 A.C. 578; 55 C.L.R. 1; 42 A.L.R. 333



Goods belowers to a company were conveyed, in a motor valuels owned by the company, from its warchouse on Methourne Victoria, to its brunch shops in certain towns in New South Wales, for this grade of the Company of

Commonwealth and the State being attributable to action by the Commonwealth, and the provisions of this section not binding the Commonwealth. Seeley v J C Halpin Pty Ltd., 1936 V L R 76, 42 A L R 138.

Per Latham, CJ, Rich and Starke JJ.. It having been decided that s 92 does not bind the Commonwealth, the regulations under the Transport Workers' Act 1928-1929 are not invalid as contravening that section Elliot v Commonwealth, (1936) 54 C L R 657; 42 A L R 174

Held by the High Court that the Dread Fraits Act 1928-1935 is not invalid as contravening the provisions of this section, the section not binding the Commonwealth. James v Commonwealth, (1935) 52 C I R. 570, 41 A.L.R. 275. But held by the Privy Council, on appeal, that the Act in question is invalid as contravening the provisions of this section, and that this section binds the Commonwealth as well as the States James v Commonwealth, 1936 A.C 578, 55 C I.R. 1; 42 A.I.R 333

Held by the Privy Council that the test whetlier an Act contravenes section is whether there is interference with the freedom of passage from State for State James v Commonwealth, 1936 A C 578; 55 C I.R. 1, 42 A I.R. 333

Held by the Privy Council that the only himitation which can be placed on the word "free" in this section is that it means freedom at what is the crucial point in interstate trade, that is, at the State barrier. Effect of use of word "absolutely" discussed by Privy Council. Bid

Held by the Privy Council that the following Commonwealth Acts are not invalid as interfering with the freedom of trade provided for by this section, namely —Post and Telegraph Act 1901–1923, Wireless Telegraphy Act 1905, Secret Commissions Act 1905. Commerce (Trade Descriptions) Act 1905–1933, Australian Industries Preservation Act 1906–1930, Sea-Curriage of Goods Act 1924, and Transport Workers Act 1928–1929; but that the Dany Produce Act 1933–1935 is invalid as so interfering. James v. Commonwealth, 1936 A.C. 578, 55 C I.R. 1, 42 A.I.R. 333

Held by the Privy Council that the following are

(a) customs duties, and border prohibitions and restrictions of every kind;
(b) compulsory acquisition directed wholly or partially against interstate trade in goods, i.e., against selling them out of the State;
(c) placing a special byrden on goods in the State to which they have come, simply because they have come from the other State;
(d) general restriction on goods passing from State to State.

James v. Commonwealth, 1936 A.C 578; 55 C.L.R. 1; 42 A.L.R. 333.

Held also that this section operates to prohibit restrictions upon free passage whether in the State of origin of the goods or in that of destination. Ibid

(d) Per Griffith, C.J. The effect of this section would, but for s. 95, be to prevent the collection of duties on goods passing from other States to Western Australia upon the establishment of the Commonwealth Murray & Co v Collector of Customs, ('303) 1 C.L.R. 25, at p. 32.

Paragraph considered by High Court in its bearing upon s. 93 Tusinana v Commonwealth and Victoria (1904) 1 C L R. 329, 10 A L.R. (C.N.) 41

Question of application of maxim expressio unius est exclusio alterius to this provision under which for a limited period (two years) the excess duty only is payable, discussed by Griffith, C.J. Tasmania v. Commonwealth and Victoria (1904) 1 C L R. 329 at p. 341-4, 10 A.L.R. (C.N.) 41.

Per Barton, J.: The object of the enactment of this second paragraph was to prevent one State becoming the collecting ground for goods under a low pre-Federal tailf with the object of afterwards taking advantage in the other States of the uniform tariff. Tasmania v. Commonwealth and Victoria, (1904) 1 C L R. 329, at pp. 353-7. See also per O'Connot, J., at p. 362

(e) As to the meaning of "chargeable", see Tasmania v Commonwealth and Victoria, (1904) 1 C L R 329, at p. 344, 10 A L.R. (U N) 41

(f) As to the obligation to deal under s 89 with the excess duty provided for in this section, see Tasmana v Commonwealth and Victoria, (1904) 1 C L R. 329, at p. 357, 10 A.L R. (C N.) 41

Payment to States for five

- 93(a). During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise years after uniform Tariffs, provides(b) (1)_
 - (1.)(c) The duties of customs(d) chargeable(e) on goods imported into a State and afterwards passing into another State for consumpt on, and the duties of excise(f) paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State:
 - (ii.) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, (9) and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

GENERAL NOTES —(1) The Parliament "otherwise provided" by means of the Surplus Revenus Act 1908, which commenced on 13th June, 1908

NOTES OF CASES.—(a) Meaning of section discussed by High Court New South Wales v Commonwealth (1908) 7 C L R 179, at pp. 188, 195, 197, 204-6; 14 A.L.E. 625, at pp. 628, 630, 631, 634.

(b) Effect of the words "until the Parliament otherwise provides" upon the liability of the Commonwealth to pay balances to the States, discussed by High Court. New South Wales v Commonwealth, (1908) 7 C.L.R. 179, at pp. 188, 204-5; 14 A.L.R. 625, at pp. 628, 634

(c) Held by the High Court that paragraph (1) of this section applies only to goods imported, produced or manufactured after the imposition of uniform duties. Tasmania v. Commonwealth and Victoria, (1904) 1 C.L.R. 329; 10 A.L.R. (C.N.) 41.

(d) As to whether duties of customs are imposed on the goods themselves, or only in respect of goods, see Attorney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5 C.L.R. 818, at pp. 829, 847; 14 A.L.R. 516, at pp. 519, 526.

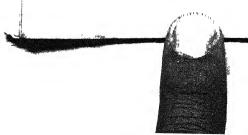
(e) As to the meaning of "chargeable" see Tusmania v. Commonwealth and Victoria, (1904) 1 C.I. R. 329, at pp. 334, 344, 361; 10 A.L. R. (C.N.) 41.

(f) As to the meaning of the words "duties of excise" see cases noted under s. 90 Fact that in this section the expression is used in the narrower sense, and not as including all kinds of inland revenue imposts, as is the case in some English Statutes, pointed out by triffith, C.I., in Petersvald v. Bartley, (1904) I C.L.R. 497, at p. 506; 10 A.L.R. (C.N.) 65. See also John Fauria and Some Lid and Smuth's Newspapers Lid. v. New South Wales, (1927) 39 C.L.R. 139, at p. 145; 33 A.L.R. 84, at p. 86.

(g) Held by the High Court that, in the case of a New South Wales officer transferred with his department to the Commonwealth, and subsequently retired compulsorily, the share (attributable to the Commonwealth) of the gratuity payable to him under section 60 (ii) of the Public Service Act 1895 (N S.W.) is, during the operation of this section, to be debited to the State as expenditure. New South Wales v Commonwealth, (1908) 6 C.L.R. 214.

Distribution of

94.(a) After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair,



for the monthly payment to the several States of all surplus revenue(b) of the Commonwealth.(1)

GENERAL NOTES .- (1) The following provision has been made by the Parliament in pursuance of this

section —

By the Surplus Revenue Act 1919 provision was made for a per capita payment of 25s. per annum to
the States for a period of ten years and thereafter until the Parliament should otherwise provide.

the States for a period of ten years and thereafter until the Parliament should otherwise provide.

The sections of the Surplus Revenue Act 1910, providing for this per capita payment, were repealed by the States Grants Act 1927, as from the 30th June, 1927. This instruentioned Act provided—subject to the terms of any agreement made between the Commonwealth and all the States—for certain monthly payments to each State for one year commencing on 1st July, 1927. An agreement was made on 12th December, 1927, between the Commonwealth and all the States, providing for the adjustment of the Commonwealth and state financial relations. This agreement is contained in the Schedules to the Financial Agreement Act 1928 and the Financial Agreement Validation Act 1929, and appears in this Volume, Amenalty C. 2017a. In 167. Appendix C, infra, p 167.

NOTES OF CASES—(a) Per Barton, J. The form of this section suggests that the financial arrangements laid down by the preceding sections of the Constitution as the arrangements to be followed during the early period of Federation, were the arrangements regarded by the framers of the Constitution as being fair. Tamania v Commonwealth and Victoria, (1904) I C L.R. 329, at p 355, 10 A L.R. (C N.) 41

(b) Held by the High Court that the words "surplus revenue" in this section denote the same sum as the aggregate amount of the balances required by see 33 to be paid monthly to the States New South Wales v Commonwealth, (1908) 7 C L R 179, 14 A L.R. 625

Held by the High Court that money appropriated by the Parliament for a specific purpose, even though not yet actually disbursed, cannot form part of the "surplus revenue" distributable among the States under this section until the actual disbursement of it for that purpose is no longer lawful or no longer thought necessary by the Government. Ibid.

95. (a) Notwithstanding anything in this Constitution, the Parliament Customs duties of Western of the State of Western Australia, if that State be an Original State, may, during the first five years after the imposition of uniform duties of customs, impose duties of customs(b) on goods passing into that State and not originally imported from beyond the limits of the Commonwealth(1); and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable (c) on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods(d), then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth. (e)

GENERAL NOTES —(1) In pursuance of the power conferred by this section the Parliament of Western Australia passed two Acts imposing customs duties, namely, Acts 64 Vic. No. 14, and 1 Edw. VII. No. 3.

NOTES OF CASES.—(a) Held by the High Court that under this section the power of the Parliament of Western Australia to tax goods by way of customs duties is as unfettered, so far as regards the description of goods to be taxed, as it was before the establishment of the Commonwealth; but the duties, as prescribed by that Parliament, do not attach, by virtue of the Western Australian Tariff Act, to goods which are imported from beyond the limits of the Commonwealth. Murray and Co. v. Collector of Customs, (1903) 1 Cl. R. 25

(b) As to whether duties of customs are imposed on the goods themselves, or only in respect of goods, see Attorney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5 C L R. 818, at pp. 829, 847, 14 A.L.R. 516, at pp. 519, 526.

(c) As to the meaning of "chargeable," see Tasmania v. Commonwealth and Victoria, (1904) 1 C.L.R. 329, at p 344; 10 A.L.R. (C.N.) 41.

(d) Held by the High Court that the expression "like goods" is merely a term of comparison, it includes such goods of non-Australian origin as are of the same description as the goods mentioned in the Western Australian tariff, and is not limited to goods of a class which is presently of Australian origin.

Murray and Co. v. Collector of Customs, (1903) 1 C.I. R. 25

(c) Held by the High Court that the imposition of duties on foreign goods is within the exclusive authority of the Parliament of the Commonwealth; and that this paragraph is to be read as a governing enactment qualifying the construction of every Federal Tariff. Its effect is that, if the rates imposed by the Western Australian tariff on any goods of Australian origin are higher than the rates prescribed by the Federal tariff upon the importation of like goods, that tariff is to he read in Western Australia as if the higher rate were prescribed by it. The taxation of ic sign goods is therefore the act of the Parliament of the Commonwealth, and not of the Parliament of Western Australia. Murray and Co v. Collector of Customs, (1903) 1 CLB 25

Financial sistance to States.

96.(a) During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

NOTES OF CASES —(a) Held by the High Court that the Federal Aul Roads Act 1926 is a valid exercise of the power conferred upon the Parliament of the Commonwealth by this section to grant financial assistance to any State on such terms and conditions as the Parliament thinks fit Victoria v Commonwealth, (1926) 38 C.I. R 399

Audit.

97. Until the Parliament otherwise provides,(1) the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

GENERAL NOTES.—(1) The Parliament has otherwise provided, by means of various Audit Acts the first of which was passed in 1901

Trade and commerce include navigation and State railways.

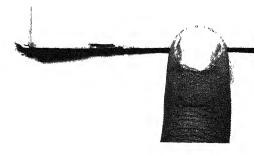
98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping (a), and to railways the property of any State. (b)

Notes of Cases—(a) Held by the High Court that the effect of s. 51 (i) and s 98 of the Constitution is to endow the Parliament, not with a substantive power to deal with navigation and shipping at large, but only with power to deal with that subject an so far as it is relevant to inter-State and foreign trade and commerce—Held, therefore, that the provisions of the Navigation Act 1912—1920 and the Schedules thereto and of the regulations made thereunder as to the maining of, and accommodation on, ship, to the extent that they purport to pre-cribe rules of conduct to be observed in respect of ships engaged solely in the domestic trade and commerce of a State are beyond the power of the Parliament of the Commonwealth, and are to that extent invalid. Neucastle and Hunter River Stamship Co. Lid. v. Attorney-General for the Commonwealth, (1921) 29 C L.B. 357; 27 A.L.B. 373 See also decision of High Court in R. v. Burgess. Extended the Act on the Act of the Commonwealth of the Commonwealth of the Commonwealth (1921) 29 C L.B. 357; 27 A.L.B. 373 See also decision of High Court in R. v. Burgess. Extended to the Act of the Commonwealth (1921) 29 C L.B. 357; 27 A.L.B. 373 See also decision of High Court in R. v. Burgess. As to whether an intra-State vessel may be used for the purposes of inter-State or foreign trade, although it may carry goods only between ports in the same State, see Neucastle and Hunter River Steamship Co. Lid. v. Attorney-General for the Commonwealth (1921) 29 C L.B. 357, at p. 366, 27 A.L.B. 373, at p. 376.

As to whether this section, coupled with s 51 (1), excludes the operation of the Colonial Laws Validity Action laws made by the Commonwealth Parliament from the restrictions on colonial legislation imposed by ss. 755 and 736 of the Merchant Shipping Act 1894, see Union Steamship Co. of New Zealand Lid. v. Commonwealth, (1925) 36 C L.B. 130; 31 A.L.B. 269.

As to whether placitim (i) of s. 51, coupled with this section, empowers the Parliament of the Commonwealth, According the commonwealth Parli

As to whether placitam (i) of s. 51, coupled with this section, empowers the Parliament of the Commonwealth to confer on a Court of Marine Inquiry jurisdiction to inquire into a collision occurring between two steamships engaged in intra-state trade, when the collision occurred at a place a short distance outside the course ordinarily used by ships engaged in trade and commerce with other countries or among the States (the two steamships having traversed part of that course shortly before the collision took place), see R. v. Turner, exparie Marine Board of Hobert: Tasmana v. Commonwealth, (1927) 39 C.L.R. 411; 88 A.L.R. 174.



As to whether s 478 of the Merchant Shipping Act 1891 enables the Tarliament of the Commonwealth to after the nature of the jurisdiction exercised by any Commonwealth Court so as to affect the division of powers which the Constitution makes between Commonwealth and State, see which.

(b) Held by the High Court that the legislative authority of the Commonwealth Parhament under the

(b) Held by the High Court that the legislative authority of the Commonwealth Parhament under the powers contained in sections 51 (1) and 98, so far a regards wages and terms of employment, does not extend further than to prohibit, for causes affecting interstate traffic, specific persons from being employed in such traffic, it, indeed, it extends so far. Federated Amalgamated, &c., Association v New South Wales Radway Traffic Employees Association, (1906) 4 C L R 488, 13 A L R 273

Held by the High Court that this section does not enlarge the ambit of the trade and commerce clause in s. 51 (b) but is merely explanatory of the trade and commerce powers Owners of SS Kahow v Wilson, (1910) 11 C L R 639, 17 A L R 410

Held by the High Court (Isaacs, tavan Duffy, Powers and Rich, JJ; Griffith, CJ, and Barton, J dissenting) that this section, coupled with s 51 (1), confers upon the Commonwealth Parliament power to legislate as to navigation and shipping so far as concerns inter-State traffic, and in particular to regulate the reciprocal rights and obligations of those engaged in carrying on that traffic by means of ships. Held, therefore, that the Seamen's Compensation 1ct 1911 is a valid excremes of the legislative power of the Commonwealth Parliament. Australian Steamships Limited v Malcolm, (1914) 19 C L R, 298; 21 A L R, 37

Question whether inclusion in this section of the reference to State railways indicates that the generality of placitum (xxxv) of s. 51 should be cut down so as to exclude State 1 allways, discussed by High Court Australian Railways Union v Victorian Railways Commissioners, (1930) 44 C L R, 319; 37 A L R, 37

99. The Commonwealth shall not, by any law or regulation of trade, (a) commerce, or revenue, give(b) preference to one State(c) or any part thereof preference preference over another State(c) or any part thereof.(d)

Commonwealth

Notes of Cases.—(a) Held by the High Court that the award by the Commonwealth Court of Concillation and Arbitration of different rates of wages or different conditions of employment in different States is not a law or regulation of trade, within the meaning of this section Federated Swamill, &c. Employees of Australana Vaines More & Sov Pty Ltd., (1909) & C L.R. 465, 15 A L.R. 374

Per Latham, C J. A law providing for a bounty on the export of goods would, and a law providing for a bounty on the production of goods would not, be a law of trade or commerce within the meaning of this section A law imposing customs duties is a law of trade, commerce or revenue within the meaning of this section

Elliott v Commonwealth, (1936) 54 C L.R. 657, at p. 667, 42 A L.R. 174, at p. 176.

- (b) Force of the word "give" discussed by High Court in relation to the imposition of a licensing system in employment in one State or a part of a State Elliott v Commonwealth, (1936) 54 C L.R. 657. at pp 671-2, 42 A L B. 174, at p 178
- (c) Held by the Full Court of the Supreme Court of Queensland that the Excise Tariff 1902 (Cth) did not give preference to one State over another State contrary to this section Colonial Sugar Refining Co. Ltd v Irving, 1903 St R Qd. 261 Decision affirmed by Privy Council on appeal. Colonial Sugar Refining Co. Ltd v Irving, 1906 A C. 360

 Reference to States in this section cited in support of the view that when the Constitution means that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations, the Constitution expressly says so. Merchant Service Guill of Australiana v Commonwealth Stramship Owners' Association (No. 2), (1920) 28 C L R. 136, at p. 451, 27 A L R. 161 at p. 164

operations, the Constitution expressly says so Merchant Service Guild of Australasia v Commonwealth Stemship Owners' Association (No 2), (1920) 28 U.R. 136, at p. 451, 27 A LR 161 at p. 164

(a) Held by the High Court (Griffith, CJ, Barton and O'Connor, JJ., Isaacs and Higgins, JJ dissenting) that an Act purporting to impose duties of exuse on certain manufactured goods, with a proviso that the Act shall not apply to any such goods manufactured under conditions fixed by tribunals having power to fix different conditions for different States or areas, is invalid as authorizing the giving of preference to one State or a part thereof over another State or part thereof contrary to the provisions of this section R v Barger, Commonwealth V McKay (1908) 6 U.R. 41, 14 A LR. 374

Held by the High Court that the award by the Commonwealth Court of Conciliation and Arbitration of different rates of wages or different conditions of employment in different States would not amount to the giving of preference to a State contrary to this section Federated Sawmil, &c., Employees of Australiasia v James Moore & Son Phy Ltd., (1909) 8 C L R. 465, 15 A L R. 374

As to whether this section would prevent the Commonwealth from imposing border duties, see Duncan v. Queensland, (1916) 22 U L R. 556, at p. 572, 22 A LR. 465, at p. 472

As to the effect of this section on the Commonwealth, see W & A McArthur Ltd v Queensland, (1920) 23 C L R. 530, at p. 556; 27 A L R. 130, at p. 141

As to the invalidity of Income Tax Regulations 46 and 46a and Table III (S R. 1918 No. 315) on the ground that they purported to fix different amounts as the fair average value of tive stock in different States, and consequently discriminated between States and parts of States, see Cameron v Deputy Federal Commonweators of Taxaton, (1923) 32 C L R. 68, 29 A L R. 110

Held by the High Court that the Pederal Aul Roads Art 1926 is not affected by the provisions of this section Victoria v. Commonweath, (1926) 38 C L R. 399.

Held by the High Court that the Direal

(1928) 41 C.L.R. 442
Section 4 of the Dried Fruits Export Control Act 1924-1935 (Commonwealth) constitutes a Dried Fruits Control Board and provides that the Board shall consist of (amongst others) two representatives elected by growers in Victoria and one representative elected by growers in each of the States of New South Wales, South Australia and Western Australia. Held by the High Court that that section does not contravene this section. Nature of "preference" which is prohibited by this section discussed by High Court Crone v Commonwealth, (1935) 54 C.L.R. 69, 41 A.L.R. 445.

Held by the High Court (Latham, C.J., Rich, Starke and McTiernan JJ., Dixon and Evatt, JJ. dissenting) that the Regulations under the Transport Worker's Act 1928-1929—which applied to the engagement of seamen at certain ports in four States only -qid not contravene this section as giving a preference to those States. Elicoft v Commonwealth, (1936) 54 C.L.R. 657, 42 A.L.R. 174.

Observations as to the discrimen which is forbidden by this section.

Nor abridge rater.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State (a) or of the residents (b) therein to the reasonable use of the waters of rivers for conservation or irrigation.

Notes of Cases—(a) Reference to States in this section cited in support of the view that when the Constitution means that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations, the Constitution expressly says so Merchant Service Guald of Australasia v. Commonwealth Steamship Owners' Association (No 2), (1920) 28 C. L. R. 436, at p. 451, 27 A.L.R. 161, at p 164.

(b) As to whether the word "residents" in this section includes artificial persons or corporations as well as natural persons, see Australasuan Temerance and General Mutual Life Assurance Society Ltd. v. Howe, (1922) 31 C.L.R. 290, at pp. 299, 321, 334-5; 29 A L R. 46, at pp. 50-1, 59, 64-5.

Inter-State

101. (a) There shall be an Inter-State Commission, (1) with such powers of adjudication^(b) and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, (c) and of all laws made thereunder.

GENERAL NOTES.—(1) By the Inter-State Commission 4ct 1912, provision was made for the establishment of the Inter-State Commission. It was to consist of a Chairman and two other members, the Chairman to receive a salary of £2,500 per annum, and each of the other members £2,000 per annum. The first three members were appointed for a term of seven years from 11th August, 1913. Upon the expiration of the period of their appointments, no further appointments were made, and no further appointments have since been made up to the date of the preparation of this volume.

Notes of Cases—(a) Meaning of section discussed by High Court. Huddart Parker & Co. Pty Ltd v. Moorehead, (1909) 8 C.L R. 330; 15 A L R 241; New South Wales v Commonwealth, (1915) 20 C.L R. 54; 21 A.L R. 128.

(b) Held by the High Court (Griffith, CJ, Isaacs, Powers and Rich, JJ; Barton and Gavan Duffy, JJ. dissenting) that this section does not authorize the Parliament of the Commonwealth to constitute the Inter-State Commission a Court New South Wales v. Commonwealth, (1915) 20 CLR 54; 21 A L.R 128. Held, therefore, that the Inter-State Commission has no power to issue an injunction. Ibid Meaning of expression "powers of adjudication" discussed. Ibid.

(c) Held by the High Court that the inquiry authorized by the Australian Industries Preservation Act 1906-1907, s. 155, is not an incident of the execution and maintenance of the provisions of the Constitution relating to trade and commerce within the meaning of this section, and need not be entrusted to the Inter-State Commission. Huddart Parker & Co. Pty. Ltd. v. Moorehead (1909) S C L R 330, 15 A L.R 241.

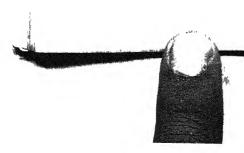
Parliament may forbid preferences by State.

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, (a) any preference or discrimination by any State, (b) or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission. (c)

Notes of Cases.—(a) Question whether inclusion in this section of the reference to "railways" indicates that the generality of placitum (xxxv) of s 51 should be cut down so as to exclude State railways, discussed by High Court. Federated Amalgamated &c Association v. New South Wales Railway Traffic Employees' Association, (1906) 4 C. L. 488; 13 A.L.R. 273; Australian Railways Union v. Victorian Railways Commissioners, (1930) 44 ('.L.R. 319, 37 A.L.R. 273;

(b) Reference to States in this section cited in support of the view that when the Constitution means that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations, the Constitution expressly says so. Merchant Service Guild of Australasia v. Commonwealth Steamship Owners' Association (No. 2), (1920), 28 U.L.R. 436, at p. 451, 27 A L R. 161, at p. 164.

c) As to whether this section should be read as an exception from or as a supplement to the provisions 72 of the Constitution, see New South Wales v. Commonwealth, (1915) 20 C.L.R. 54, at p. 62; 21 A.L.B. 128, at p. 133.



Commissioners appointment, tenure, and

remuneration.

103.(3) The members of the Inter-State Commission—

(i.) Shall be appointed by the Governor-General in Council:

(ii.) Shall hold office for seven years, (a) but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity(b):

(iii.) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during

their continuance in office.

GENERAL NOTES -(1) See General Notes to section 101, supra.

Notes of Cases—(a) As to whether the limited tenure of the office of Inter-State Commissioners renders it impossible for them to be a Federal Court within the meaning of s. 72, see New South Wales v. Commonwealth, (1915) 20 C L R. 54, at pp 62, 76, 109, 21 A.L R 128, at pp. 133, 138-9, 151

(b) As to whether the fixed tenure of office given by this section indicates that it was intended that a execution and maintenance of the trade and commerce laws should not be entrusted to ordinary one execution and maintenance of the trade and commerce laws should not be entrusted to ordinary members of the Public Service, see Huddart Parker & Co Pty Itd v Moorehead. (1909) 8 CLP 330, at p. 359, 15 ALR 241, at p. 251

104. Nothing in this Constitution shall render unlawful any rate for saving of the carriage of goods upon a railway, the property of a State, (a) if the rate is deemed by the Inter-State Commission (b) to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

Notes of Cases.—(a) Question whether inclusion in this section of the reference to State railways indicates that the generality of placitum (xxxv) of s. 51 should be cut down so as to exclude State railways, discussed by High Court Federated Amalgamated &c Association v. New South Wales Railway Traffic Employees Association, (1906) 4 Cl. R. 488, 13 A.I.R. 273, Australian Railways Union v. Victorian Railways Commissioners, (1930) 44 Cl.R. 319; 37 A.I.R. 37.

(b) As to whether any of the duties assigned to the Commission under this section may properly be performed by a Court, see New South Wales v Commonwealth, (1915) 20 C L R 54, at pp 102, 110, 21 A.L R. 128, at pp 148, 151

105. The Parliament may take over from the States their public Taking over debts as existing at the establishment of the Commonwealth, or a states. proportion thereof according to the respective numbers of their people Altered by No. 3, 1910, s. 2. as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

GENERAL NOTES.—(1) The words printed in italics in this section are those which were omitted by Act No. 3, 1910.

Agreements with respect to State debts inserted by Act No. 1, 1929,

105A. (1)—(1.) The Commonwealth may make agreements (1) with the States with respect to the public debts of the States, including-

- (a) the taking over of such debts by the Commonwealth;
- (b) the management of such debts;
- (c) the payment of interest and the provision and management of sinking funds in respect of such debts;
- (d) the consolidation, renewal, conversion, and redemption of such debts;
- (e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
- (f) the borrowing of money by the States or by the Commonwealth. or by the Commonwealth for the States.
- (2.) The Parliament may make laws for validating any such agreement made before the commencement of this section.
- (3.) The Parliament may make laws for the carrying out by the parties thereto of any such agreement. (a)
- (4.) Any such agreement may be varied or rescinded by the parties thereto.
- (5.) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.(")
- (6.) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.

GENERAL NOTES —(1) This section was inserted by Act No. 1, 1929,
(2) For copies of agreements made with the States with respect to matters specified in this section, see Appendix C, infra, pp. 167-104

Notes of Cases.—(a) Held by the High Court (Rich, Starke, Dixon and McTiernan, JJ.; Gavan Duffy, C.J., and Evatt, J, dissenting) that the provisions of Part II of the Financial Agreements Enforcement Act 1932 are a valid exercise of the legislative powers of the Federal Parliament New South Wales v. Commonwealth (No. 1), (1932) 46 C.L. R. 155, 38 A.L.R. 245

Meaning of words "for the carrying out by the parties" discussed by High Court. New South Wales v. Commonwealth (No. 1), (1932) 46 C.L. R. 155, at pp. 178, 202-9; 38 A.L. R. 245, at pp. 250, 260-3

Held by the High Court (Rich, Starke, Dixon and McTiernan, JJ., Gavan Duffy, C.J., and Evatt, J., dissenting) that s. 15 of the Financial Agreements Enforcement Act 1932—which requires the chief executive officer of a Bank to furnish a return of the amount of the balance standing to the credit of a State, and to pay the amount of the balance to an authorized person—constitutes a valid exercise of the power conferred upon the Commonwealth by this section New South Wales v. Commonwealth (No. 3), (1932) 46 C.L.R. 246

As to whether Part II of the Financial Agreements Enforcement Act 1932 is within the power derived by the Parliament from the operation of s. 78, combined with this sub-section, see New South Wales v. Commonwealth (No 1), (1932) 46 C.L.R. 155, at pp. 173, 174, 203, 214-5; 38 A.L.R. 245, at pp. 248-9, 260, 265-6.

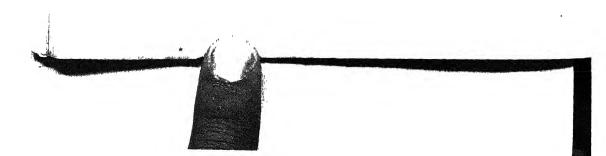
(b) Meaning of sub-section discussed by High Court. New South Wales v. Commonwealth (No 1), (1932) 46 C.L.R 155, at pp. 172-8, 174, 177, 179, 180, 201, 202, 221-3, 226, 228-9; 38 A L.R. 245, at pp. 248, 249, 250, 251, 260, 268-70, 271.

THE STATES.

Saving of Constitutions.

CHAPTER V.—THE STATES.

106. (a) The Constitution of each State of the Commonwealth shall, subject to this Constitution, (b) continue as at the establishment of the



Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

Notes of Cases—(a) As to the effect of the inclusion of this section and s 107 upon the question of implied prohibitions, see Webb v Outlinin, 1907 A C F, at p 89, 4 C L R, 356, at p 359; 13 A L R (CN) 1, Baxter v Commissioners of Taxation (N S W, (1907) 4 C L R, 1967, at p 1165, 13 A L R 313, at p 343; Amalgamated Society of Engineers v Adelayle Steamship Co Ltd., (1920) 28 C L R 129; 26 A L R 337

As to the effect of this chaotiment upon State Constitutions, see decision of the Privy Council in McCaulty v. The King, 1920 A C 691, 28 C L R 106, 26 A. L R 285, (neversing the High Court majority decision (1918) 26 C L R 9, 24 A L R 413)

As to reading this section with s 92 see Roughly v New South Wales; Er parte Beaus, (1928) 42 C L R 162, at p 193, 35 A L. R 1, at p. 11, Exparte Nelson (No 1), (1928) 42 C L R 200, at pp 253, 254, 35 A L R 21, at pp 36, 37.

As to whether the inclusion of this section provides the restraint upon the legislative power of the Parlament of the Commonwealth over States which differentiates it from the power over the subject, see Australian Rankwaws Union v Victorian Rankways Commissioners, (1930) 44 C L R 319, at pp 391-2, 37 A L R 37, at p 60

As to a State being placed in a different position from that of a subject who is sued for breach of contract, and being entitled to invoke any constitutional immunity from liability other than the general hability for larent of contract included by the Constitution or impose t by the Judiciary Act, see New South Wales v Bardolph, (1931) 52 C L R 455, at pp 459-60, 41 A L R 29, at p 23

As to the extent, if any, to which this section shelds, against the operation of Commonwealth legislation under s 51, the provisions found in the Constitution Act of a State, see Stuart-Robertson v Lloyd, (1932) 47 C L R 452 at p 491, 38 A L R 369, at p 372, 5 A B C 267, at p 270.

As to the royal prerogative as to war being exercisable by the Governor-General and his Federal Ministers, and not by State Ministers, see Joseph v Colonial Treatmer (N S.W), (1918)

ALR 185, at p 193

(b) Words "subject to this Constitution" relied on by Isaacs, J., as showing that the State constitutions are subject to the grant of the enumerated powers to the national authority which are declared to be supreme R v Barger; Commonwealth v, McKuy, (1908) 6 C L R 41, at p, 83; 14 A L R 371, at p 84 See also Attorney-General for Queensland v. Attorney-General for the Commonwealth, (1915) 20 C.L R 148, at p, 172, 21 A L R 221, at p, 227

Effect of words "subject to this Constitution" discussed by Barton, J. Australian Boot Trade Employees Federation v Whybrow & Co., (1910) 10 C L R, 266, at p, 290, 16 A L R, 185, at p, 193

As to the exclusion from the scope of this section of matters which are under the exclusive control of the Parliament under s, 52, see Purne v McFarlane, (1925) 36 C L.R 170, at pp 185, 192, 199, 31

A.L.R. 365, at pp 371, 373, 376

Words "subject to this (onstitution" rehed on in argument against the validity of the Taxation (Motor Spril Vendors) Act 1925 (8 A) on the ground that it is a duty of customs or of excise Commonwealth and Commonwealth Oil Refinences Ltd. v South Australia, (1926) 38 C L.R 408, 33 A L.R 40.

107. (a) Every power of the Parliament of a Colony which has become saving of power of State or becomes a State, shall, unless it is by this Constitution exclusively(5) vested in the Parliament of the Commonwealth (c) or withdrawn from the Parliament of the State, (d) continue(e) as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

NOTES OF CASES.—(a) As to the effect which the inclusion of this section in the Commonwealth Constitution has upon the application of cases on the Constitution of the United States, see D'Emden v Pedder, (1904) 1 C.L.R. 91, 10 A.L.R. (C.N.) 30, Municipal Council of Sydney v. Commonwealth, (1904) 1 C.L.R. 203; 10 A.L.R. (C.N.) 29.

Held by the High Court that nothing in this section empowers a State to tax a person entering the State under the direction of a paramount sovereign. But if such a wide power existed it was, if it would interfere with federal agencies, withdrawn from the State by this section. Deakin v. Webb. Lyne v. Webb, (1904) 1 C L R. 585; 10 A L R. 237. (NOTE.—The cases of Deakin v. Webb and Lyne v. Webb, in so far as they decide that the taxation by a State of money received by a federal officer as salary from the Commonwealth is invalid as being an interference with a federal instrumentality, were overruled by Analgamated Society of Engineers v. Adelaude Steamship Co. Ltd., (1920) 28 C L R. 129, 26 A L R. 337.)

As to the effect of the inclusion of this section and s. 106 upon the question of implied prohibitions, see Webb v. Outrum, 1907 A C 81, at p. 88; 4 C.L.R. 356, at p. 359, 13 A.L.R. (C N) 1; Barter v. Commissioners of Taxation (N S W), (1907) 4 C L R 1087, at p 1165, 13 A L R 313, at p 343, Amalgamated Society of Engineers v. Adelande Steamshap Co. Ltd., (1920) 28 C L B. 129, 26 A L R 337

As to the effect of this section with s. 51 (1) in forbidding to the Commonwealth the regulation of domestic trade and commerce, see R v Barger, Commonwealth v. McKay, (1908) 6 C.L.R. 41, at p 57; 14 A.L.R. 374, at p. 376

Held by the High Court that in view of the fact that s 51 (1) of the Constitution implies that the power Held by the High Court that in view of the fact that s 51 (i) of the Constitution implies that the power of Parliament does not extend to trade and commerce within a State, the power to legislate as to internal trade and commerce is reserved to the States by this section to the exclusion of the Commonwealth. Attorney-General of New South Wales, Brevery Employees Union of New South Wales, (1908) 6 C L R. 469, 44 A L R. 565; Huddart Parker & Co. Pty Ltd. v Moorehead, (1909) 8 C.L.R. 330, at p p 350-4, 361 370, 391: 15 A L.R. 241, at pp. 247-9, 252, 255, 263.

Question whether this section preserves the police powers of the States for the preservation of the health, morals and safety of the people, discussed by High Court R v. Smithers: Ex parte Benson, (1912) 16 C.L.R. 99, at pp. 106-7. 110, 114-5, 118; 19 A.L.R. 209, at pp. 210-1, 212, 213-4, 215.

Parliaments.

As to the effect of this section upon the validity of the Royal Commissions Act 1902-1912, which purports to enable a Royal Commission to compel answers generally to questions, or to order the production of documents, or otherwise to enforce compliance by the members of the public with its requisition, see Attorney-General for the Commonwealth v. Colonial Sugar Refining Co. Ltd., 1914 A C 237, 17 C.L.R. 644, 20 A L.R. 22

As to the obligation imposed by this section on those who allege that a power, previously possessed by the States, is now ex-crisable by the Commonwealth, see Attorney General for the Commonwealth Colonial Sugar Refining Co. Ltd., 1914 A C 237, at pp 254-5, 17 C.L.R. 644, at p 653; 20 A L.R. 22, at pp 26-7, Waterhouse v. Deputy Federal Commissioner of Lind Tax, S.A., (1914) 17 C.L.R. 665, at pp. 671-2, 20 A L.R. 155, at pp 157-8

As to whether this section has any effect in actermining the extent of the Commonwealth legislative power, see Australian Steamshys Limited v. Malcolm, (1914) 19 C.L.R. 298, at pp. 305, 330, 21 A*L.R. 37, at pp. 38, 48

As to the continuance, by virtue of this section, of the general power of expropriation possessed by the States, see New South Wales v. Commonwealth, (1915) 20 C.L.R. 54, at pp. 66-7, 78, 105, 21 A.L.R. 128, at pp. 134-5, 139, 150

As to the continuance, by virtue of this section, of the general power of expropriation possessed by the States, see New South Wales v Commonwealth, (1915) 20 CLR 54, at pp 66-7, 78, 105, 21 A.LR. 128, at pp. 134-5, 139, 150

Section cited by majority of High Court in upholding validity of Meat Supply for Imperial Uses Act 1914 of the State of Queensland, the validity of which had been attacked as being an infringement of s 92 of the Constitution Duncar v State of Queensland, (1916) 22 CLR 556, 22 A.LR 465

Fact that this section preserves, not reserves, powers to States pointed out by Isaacs, J. Stemp v Australian Glass Manufacturers Co. Ltd. (1917) 23 CLR 226, at p. 242, 23 ALR 273, at p. 279

As to the royal prerogative as to wai being exercisable by the Covernor-General and his Federal Ministers, and not by State Ministers, see Joseph v Colonical Treasurer (N.S.W.), (1918) 25 CLR 32, at p. 51, 24 ALR 185, at p. 193

Held by the High Court that this section continues the previously existing powers of the Parliaments of the States to legislate with respect to State exclusive powers and State powers which are concurrent with Commonwealth owers, but does not reserve any power from the Commonwealth which falls fairly within the explicit terms of an express grant in s. 51, as that grant is reasonably construed, unless that reservation is as explicitly stated. Aradigamated Society of Engineers v Adelaide Steumship Co. Ltd. (1920) 28 CLR 129, 26 ALR 32, 35.

As to reading this section with s. 92, see Roughley v New South Wales. Exparte Beaus, (1928) 42 CLR 209, at pp. 253, 254, 35 ALR 21, at pp. 36, 37.

Section cited in support of the view that the power of the Commonwealth to legislate with respect to inter-state trade and commerce is not exclusive of that of the States. R. v. Vizzari. Exparte Hill, (1933) 50 CLR 20, at pp. 88, 101, 40 ALR 16, at pp. 35, 40. See also James v Commonwealth, 1936 A.C. 578, 55 CLR 14, 24 ALR 28, 333

As to whether antinomy exists between this section and s. 92, see James v Commonweal

As to whether antinomy exists between this section and s. 92, see James v Commonwealth, 1936 A C 578, 55 C L R 1, 42 A L R 333.

As to whether this section imports all State powers as fully as if they were specifically set out, see

(b) Per Isaacs and Starke, JJ "Exclusively vested" in this section means vested in the Parliament of the Commonwealth to the exclusion of State Parliaments, exclusive as opposed to concurrent Nott Brôs & Co. Ltd. v. Barkley, (1925) 36 C L R. 20, at p 29, 31 A.L.R. 256, at p 260

Per Isaacs, J. The exclusive vesting referred to in this section must be found in the language of the Constitution, and not in what were once regarded as implied prohibitions apait from any language of the instrument Clyde Baruneering Co Ltd. v Couburn; Metters Ltd. and Lever Bros Ltd v Pickard, (1926) 37 C L.E. 466, at p 488; 32 A.L.R. 214, at p. 222

37 C.L.E. 466, at p 488; 32 Å.L.R. 214, at p. 222

(c) As to the exclusion from the general scope of this section of matters which are under the exclusive control of the Parliament under s 52, see Pirrie v. McFarlane, (1925) 36 C.L.R. 170, at pp 185, 192, 199, 31 A.L.R. 365, at pp. 371, 373, 376.

Words "unless it is exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State" relied on in argument against the validity of the Taxution (Motor Spirit Vendors) Act 1925 (8 A.) on the ground that it is a duty of customs or of excise. Commonwealth and Commonwealth Oil Refineries 1td. v. South Australia, (1926) 38 C.L.R. 408; 33 A.L.R. 408

As to whether the power to pass the Navigation 1.ct 1901 (N.S.W) has been exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the Commonwealth or withdrawn from the Parliament of the Gommonwealth or withdrawn from the Parliament of the State, see judgment of Higgins, J. (dissenting) in Hume v. Palmer, (1928) 38 C.L.R. 441, at p 458, 33 A.L.R. 66, at p 72

Scope of section in relation to exclusive vesting or withdrawal from State discussed by High Court. Roughley v. New South Wales; Exparte Bearss, (1928) 42 C.L.R. 102, at pp 193-4, 199; 35 A.L.R. 1, at pp 11, 13

As to whether the power of the State to protect its people or stock from infectious or contagious diseases has been "withdrawn", within the meaning of this section, see Exparte Nelson (No. 1), (1928) 42 C.L.R. 209; 35 A.L.R. 21.

(d) See note (c), supra.

(d) See note (c), supra.

(e) As to whether this section continues in force the competency of the Parliaments of the States to enact general penal Statutes notwithstanding the power, conferred by the Constitution on the Parliament of the Commonwealth, of creating and punishing offences relating to departments the control of which is by the Constitution transferred to the Executive Government of the Commonwealth, see R. v. McDonald,

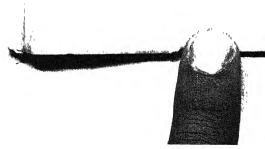
(1906) 8 W.A.L.R. 149

Held by the High Court (Barton, J) that this section cannot be construed as "continuit to tax property of the Commonwealth, seeing that no such property evisted before Federatic Council of Sydney v Commonwealth, (1904) 1 C L R. 208, at p. 235; 10 A.L R. (C.N.) 29. continuing '

As to the effect of s. 92 upon State laws which but for that section would have continued in force by virtue of this section, see Vacuum Oil Co Pty. Ltd. v. Queensland (No 2), (1935) 51 C L R. 677, at p. 691, 41 A.L.R. 114, at p 118.

Saving of State

108. (a) Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, (b) shall, subject to this Constitution, (c) continue in force in the State(d); and, until provision is made in that behalf by the



Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

Notes of Cases—(a) Section applied by the Supreme Court of New South Wales in Banco in upholding conviction of a person for an offence committed against the Customs Regulation Act 1879 (NSW.) on 2nd October, 1901, two days before the Customs Act 1901 (Commonwealth) came into operation Expacte Schuck, (1902) 2 S k NSW. 420

As to the effect which the inclusion of this section in the Commonwealth Constitution has upon the applicability of cases on the Constitution of the United States, see D'Emden v Pedder, (1904) 1 C.L. R. 31, 10 A L.R. (C.N.) 20, Municipal Council of Sydney v Commonwealth, (1904) 1 C.L. R. 208, 10 A L.R. (C.N.) 20, Section cited by Isaacs, J., as ensuring that, notwithstanding that the Constitution confers exclusive legislative power over places acquired by the Commonwealth for public purposes, a state of anarchy does not exist in those places; Commonwealth v New South Wales (1923) 32 L.R. 1, at p. 41; 29 A.L.R. 401, at p. 414

As to the royal prerogative as to war being exercisable by the Governot-General and his Federal Ministers, and not by State Ministers, see Joseph v Colonial Treasurer (N.S.W.), (1918) 25 C.L.R. 32, at p. 51, 24 A.L.R. 185, at p. 193

As to reading this section with s. 92, see Roughley v. New South Wales Exparte Beaus, (1928) 42 C.L.R. 162, at p. 193, 35 A.L.R. 1, at p. 11, Exparte Nelson (No. 1), (1928) 42 C.L.R. 209, at pp. 252-4, 35 A.L.R. 21, at pp. 36-7.

35 A L R 21, at pp 36-7.

(b) As to whether this section extends to matters within the exclusive power of the Commonwealth, see R. v Bamfurd, (1991) 1 S R (N S W.) 337

As to whether, having regard to the fact that a State Income Tax (Machinery) Act was passed before the establishment of the Commonwealth while the Annual Tax Act was passed after its establishment, a Commonwealth Public Servant is, in view of this section, hable to pay State income tax on his official salary, see In re Income Tax Acts (No. 4) Wollaston's Cuse, (1902) 28 V LR 357, at pp 389-90, 392; 3 A L R 188, at pp. 197, 198, 24 A.L T. 63, at pp 71, 72

As to what matters are matters "within the powers of the Parliament of the Commonwealth" within the meaning of this section, see Municipal Council of Sudney v. Commonwealth, (1904) 1 C L R 208, at pp 232, 234, 236, 241; 10 A L R (U N) 29.

(c) As to the meaning of the words "subject to this Constitution" see R v Bamford, (1901) 1 S R (X.S.W.) 337.

(N.S.W.) 337.

(d') As to whether the words "in the State" relate to the geographical boundaries of the State, see R. v. Bamford, (1901) 1 S.R. (N.S.W.) 3?7

Held by the Supreme Court of New South Wales in Banco that notwithstanding the enactment of the Customs Act 1901 (Commonwealth) the Customs Regulation Act 1879 (N.S.W.) remains in foice (by virtue of this section) for the punishment of offences committed against it before the enactment of the Customs Act 1901 Ex parte Schuck, (1902) 2 S.R. (N.S.W.) 420

Held by the High Court that this section does not continue the hability to rating of lands and buildings which, prior to the establishment of the Commonwealth, were hable to be rated as Crown lands in New South Wales, and which upon such establishment became vested in the Commonwealth. Municipal Council of Sydney v. Commonwealth, (1904) 1 C.L.R. 208; 10.A.L.R. (C.N.) 29

Held by the High Court that by virtue of this section the Fugicier Offenders Act 1881 (being at the date of Federation a law in force in each of the Colonies of Australia) remains in force until the Parliament of the Commonwealth makes provision in that behalf, and should therefore be interpreted as if there had been no Federation. McKelvey v. Meapher, (1906) 4 C.L.R. 265, 12 A.L.R. 483.

been no Federation McKelvey v Meagher, (1906) 4 C L.R. 265, 12 A L R 483.

109. (a) When a law of a State is inconsistent with a law of the Inconsistency Commonwealth, (b) the latter shall prevail, and the former shall, to the of laws. extent of the inconsistency, be invalid.

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Notes of Cases—(a) Held by the Supreme Court of New South Wales in Banco that there is nothing inconsistent, within the meaning of this section, in applying the Customs Regulation Act 1879 (N.S.W.) to the projection of an offence committed against that Act, notwithstanding that before the laying of the information the Customs Act 1901 (Commonwealth) had been enacted. Ex parte Schuck, (1902) 2.S.R. (N.S.W.) 420

2 S.R. (N.S.W.) 420
As to whether a law of a State imposing income tax is, in its application to the official salary of an officer of the Commonwealth, inconsistent with the laws by which the salary of the officer is fixed, see In re Income Tax Acts (No 4), Wollaston's Case, (1902) 28 V L R 357, at pp 377-8, 392-3; 8 A.L.R 188, at pp. 193, 198; 24 A L T. 63, at pp 67, 72
As to the effect which the inclusion of this section in the Commonwealth Constitution has upon the section in the section in the commonwealth Constitution has upon the section in th

As to the effect which the inclusion of this section in the Commonwealth Constitution has upon the applicability of cases on the Constitution of the United States, see D'Emden v. Pedder, (1904) 1 C.L R. 91; 10 A.L.R. (C.N.) 30.

Held by the High Court that the attaching, by State law, to the transfer to the Commonwealth of land acquired by the Commonwealth for public purposes in pursuance of the Property for Pribble Purposes acquisition Act 1901, of a condition that the Commonwealth should pay stamp duty on the transfer, creates an inconsistency between the State law and that Act Commonwealth v New South Wales, (1906) 3 C.L.R. 807, at pp. 815, 826, 12 A L R. 541, at pp. 542, 547

As to whether s. 58 of the Distillation Act 1834 (S.A.) is inconsistent with s. 76 of the Distillation Act 1901 (Commonwealth), see Robinson v. Hall, 1906 S.A.L.R. 16.

Held by the Full Court of the Supreme Court of Western Australia that the provision of the Post and Telegraph Act 1901 (Commonwealth) prohibiting the uttering of a false document is not inconsistent with the provision of the Post and Telegraph Act 1901 (Commonwealth) prohibiting the uttering of a false telegram, and a person may be convicted of an offence against the former provision even though his act amounted also to a contravention of the latter provision. R. v McDonald, (1906) 8 W.A.L.R. 149 See also R. v. Thomson, 1913 St.R. Qd 246.

As to whether this section extends to cases other than those of concurrent legislative jurisdiction, see

As to whether this section extends to cases other than those of concurrent legislative jurisdiction, see Baxter v Commissioners of Taxation (N.S.W.), (1907) 4 C L.R. 1087, at p. 1129, RS A.L.R. 313, at p. 330. (But see Amalgamated Society of Engineers v Adelaide Steamship Co. Ltd., cited hereunder)

Effect of this section in relation to the question whether the Commonwealth Court of Conciliation and Arbitration has power to make an award inconsistent with a State law, considered by High Court Federated Sammill, &c., Employees of Australiasia v James Moore & Son Ptv Ltd., (1909) 8 C L R 465; 18 L R 374 (As to whether this case is overruled by the Engineers' Case, see Waterside Workers' Federation of Australias v Galebrist, Watt and Sanderson Ltd., (1924) 34 C L R 482, at p 548, 30 A L R 402, at p 480)

Held by the High Court that an award of the Commonwealth Court of Conciliation and Arbitration is not inconsistent with a State law if compliance with the award is consistent with obedience to the State law Test of inconsistency discussed. Australian Boot Trade Employees Federation v Whybrow & Co (1910) 10 C LR 266, 16 A L R 185 (But see Clyde Engineering Co Ltd v Cowburn. Metters Ltd and Lever Bros. Ltd v Pickard, infra. p 98)

Held by the High Court that the Commonwealth Court of Conciliation and Arbitration may by an award fix a minimum rate of wages lower than the minimum rate fixed by a Wages Board of a State pursuant to a Statute of that State for the same class of work Federated Enginedrivers' and Firemen's Association of Australasia v. Adelande Chemical and Fertilizer Co. Ltd., (1920) 28 C. L. B. 1, 28 A. L. R.

As to the royal prerogative as to war being exercisable by the Governor-General and his Federal Ministers, and not by State Ministers, see Joseph v Colonial Treasurer (N S W.), (1918) 25 C L R. 32 at p 51, 24 A L R 185, at p 193

Section discussed in relation to the case of D'Emden v Pedler Federated Municipal and Shire Council aplayees' Union of Australia v Melbourne Corporation, (1919) 26 C L R 508, at pp 532-3; 25 A L R Employees' Un 309, at p. 318

Section eited by High Court in upholding s 14 of the Commonwealth Electoral (War-time) Act 1917—which prohibits the holding of a vote or referendum of the Electors under the law of a State on a day appointed as polling day for the Senate or the House of Representatives—and holding invalid a vote taken on that day under the Layor Act of 1912 (Q) as amended by the Layor Act Amendment Act of 1914 (Q) R. v Brisbane Licensing Court; Ex parts Daniell, (1920) 28 C I R 23; 26 A L R 105.

Held by the High Court that this section gives supremacy to every Commonwealth Act over every State Act, whether the latter be passed under a concurrent power of under an exclusive power, if any provision in the two conflict

Amalgamated Society of Engineers v Adelaide Steamship Co Ltd., (1920) 28 C L H 129, at p 155, 26 A L R. 337 at p 344

Held also that the rule laid down in *D'Emden* v *Pedder*, 1 C I. R. 91, at p 111, that "when a State attempts to give to its legislative or executive authority an operation which, if valid, would fetter, control, or interfere with the free exercise of the legislative or executive power of the Commonwealth, the attempt unless expressly authorized by the Constitution, is to that extent invalid and inoperative", is, on the basis of the supremacy of Commonwealth legislation created by this section, sound *Ibid*

Section applied by Knox, CJ., and Starke, J., in upholding s 16 of the Lands Acquisition Act 1906 as conferring on the Commonwealth a statutory title to land required by the Commonwealth, paramount to any title dependent on a law of the State Commonwealth v. New South Wales, (1923) 33 C.L.R. 1, at

p 27; 29 A L R 401, at p 408
Section cited by Starke, J in support of the view that an award inconsistent with a State law is supreme over that law Watersade Workers' Federation of Australia v Gilchrist, Watt and Sanderson Ltd., (1924) 34 C L R 482, at p 548, 30 A.I. R 402, at p 430

Discussion of application of this section in case of inconsistency between Commonwealth and State laws in their admitted respective and concurrent fields Pirrie v. McFurlane, (1925) 36 C.L.R. 170, at p. 192, 31 A.L.R. 365, at p. 373 31 A L R 365, at p

Section applied by High Court (Knox, CJ, Isaacs, Ga an Duffy, Rich and Starke, JJ, Higgins and Powers, JJ, dissenting) to invalidate certain provisions of the Forty-four Hours Week Act 1925 (N S W) to the extent of their inconsistency with the provisions of an award made by the Commonwealth Court of Conciliation and Arthration Test of inconsistency discussed Clyde Engineering Co Ltd v. Cowburn, Metters Ltd and Lever Bros Ltd v Puckard, (1926) 37 C L R 466, 32 A L R 214

Held by the High Court that a determination of a Stare Wages Board which fixed in an industry a higher minimum wage than that fixed by an award of the Commonwealth Court of Conciliation and Arthration in that industry, was invalid under this section H. V McKay Ltd v Hunt, (1926) 38 C.L.R. 308; 32A I R 393

32.A T R 393

As to whether this section is applicable to invalidate the Taxation (Motor Spirit Vendors) Act 1925 (SA) as being inconsistent with those portions of the Customs Act relating to imported goods being subject to the control of the Customs, see Commonwealth and Commonwealth Oil Refineres Ltd v South Australia, (1926) 38 CLR. 408, at p 421, 33 ALR 40, at p 44

Held by the High Court (Knox, C.J., Isaacs, Gavan Duffy and Starke, J.J. Higgins, J., dissenting)—
m a case in which the master of a ship had been convicted of an offence against the New South Wales
Regulations for the prevention of collisions at sea and it was contended by the defendant that proceedings
should have been taken under the corresponding Commonwealth regulation—that the provisions of the
Navigation Act 1901 (N.S.W.) and Art 19 of the Regulations thereunder, so far as they relate to the offence
with which the defendant was charged, are inconsistent with the Navigation Act 1912—1920, and therefore
invalid under this section
Meaning of "inconsistent" discussed

Hume v. Palmer, (1926) 38 C.L.R. 441, 33 A L.R 66

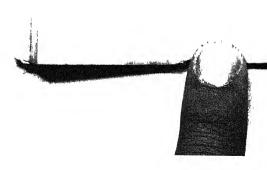
Section cited by Isaacs, J, in support of the validity of s 20 of the Commonwealth Conciliation and Arbitration Act 1904 under which the Commonwealth Court of Conciliation and Arbitration has in certain circumstances power to direct a State Industrial authority not to deal with a dispute R v. Commonwealth Court of Conciliation and Arbitration Ex parte Engineers, &c (State) Conciliation Committee, (1926) 38 C L R 563, at pp 570-1; 33 A.L R 90, at p. 92

Held by Dixon, J, that in view of this provision laws made as an exercise of Commonwealth power are paramount and absolute and prevail whether the States have or have not a power upon all or part only of the same subject Exparte Nelson (No. 2), (1929) 42 C L R 258, at p. 274, 35 A L.R 177, at p. 183.

the same subject Exparte Netson (No. 2), (1929) +2 U.L.R. 208, &U.P. 274, 30 A.L.R. 171, &U.P. 100.

Section 4 of the Masters and Servants Act 1902 (N.S.W.) held invalid pro tanto by virtue of \$109 of the Constitution by reason of its being inconsistent with the Commonwealth Concileation and Arbitration Act 1904-1928 Exparte McLean, (1930) 43 C.L.R. 472, 36 A.L.R. 377. Decision followed by the Full Court of the Supreme Court of New South Wales. McKechnie v. Ray, 1931 S.R., N.S.W., 67.

Held by the Workers' Compensation Commission of New South Wales that there is no inconsistency between the Transport Act 1930 (N S.W) and the award of the Commor.wealth Court of Conciliation and Arintration dated 14th September, 1927, concerning the New South Wales Transways Walter v Metronolitum Transport Trust, 1931 W.C.R., N S.W., 147.



As to the removal to the High Court under s 40 of the Judiciary Act 1903-1927 of a cause involving a question under this section, see O'Keefe v Country Roads Board, (1931) 45 C L R 27

Held I v v. High Court (Gavan Duffy, C J, Starke, Evatt and McTiernan, JJ, Dixon, J, dissenting) that the requirement of ss 4, 11 and 20 of the Moratorium Act 1930-1931 (N S W) that the leave of the Court mentioned in the Act be obtained before the making of a demand for, or the commencement of proceedings for the recovery of, any installment under a hir-purchase agreement, is not inconsistent with the provisions of the Bills of Exchange Act 1908-1912 Doc'time of "inconsistency" discussed Mock Motor Playaks Ltd v Forsyth, (1932) 48 C L R 128, 38 A L R 108

As to whether certain rights given by the Bankruptey Act 10 1-1930 (Commonwealth) can be affected by the Hordonium Act 1931 (N S W), or whether there is "inconsistency between those Acts, see Exparte Trustee of Property of Cork, (1932) 5 A B C 1

As to whether an inconsistency exists between Common. Litin and South Australian Moratorium legislation, see Gerloff v Mount Gambier Co-operative Nociety, 11 1921 S A S R 357

(b) Per Chiffith, C J . In this section "law of the Commonwealth" does not include a law of a Territory R v Bernascon, (1915) 19 C L R 629, at p 635, 21 A L R 86, at p 88

110. The provisions of this Constitution relating to the Governor of Provisions a State extend and apply to the Governor for the time being of the State, Governor Governor or other chief executive officer or administrator of the government of the State.

111. The Parliament of a State may surrender any part of the State states may to the Commonwealth; and upon such surrender, and the acceptance territory thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth (a)

Notes of Cases—(a) Section applied by Barton, J, to the Seat of Government Territory, of which he regarded the Jervis Bay annexe as a part Commonwealth v Woodhill, (1917) 23 (: L R 482, at p 487

112.(a) After uniform duties of customs have been imposed, a State states may levy may levy on imports or exports, or on goods passing into or out of the charges for inspection laws State, such charges^(b) as may be necessary for executing the inspection laws of the State: but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.(1)

GENERAL NOTES —(1) No inspection laws of a State had, up to the date of the preparation of this volume, been annulled by the Parliament of the Commonwealth

volume, been annulled by the Parliament of the Commonwealth

Notes of Cases — (c) Effect of the enactment of this section upon the scope of s 92 as to the freedom of inter-State trade considered by High Court. Duncan v State of Queensland, (1916) 22 CLR 556, 22

A LR 465, W & A McArthur Ltd v. State of Queensland, (1920) 28 CLR 556, 22

A LR 465, W & A McArthur Ltd v. State of Queensland, (1920) 28 CLR 530, 27 A LR 130 (overruling Duncan v. State of Queensland, supra) See also Ex parte Nelson (No 1), (1928) 42 °C LR 209,
at pp 252-4, 35 A LR 21, at pp 36-7

As to whether this section gives a State power to exclude goods altogether in any case, see Ex parte Nelson (No 1), (1928) 42 °C LR 209, at pp 252-4, 35 A LR 21, at pp 36-7

As to whether this section gives a State power to exclude goods altogether in any case, see Ex parte Nelson (No 1), (1928) 42 °C LR 209, at p 240; 35 A LR 21, at p 31 See also James v Commonwealth, 1936 A C 578, 55 °C LR 1; 42 A LR 333.

Held by the High Court that a proclamation by the Governor in Council of Victoria, purporting to be issued under the Vegetable and Vine Diseases Act 1928 (Vict), prohibiting the importation, introduction or bringing into Victoria ci potatoes from Tasmania on the ground that the introduction was likely to introduce disease into Victoria, was not an inspection law within the meaning of this section Tasmania v. Victoria, (1935) 52 °C LR 157, 41 A LR 157

As to whether this section should be understood as an express reservation of power to make an inspection law which, otherwise, would be withdrawn by s. 92, see Tasmania v. Victoria, (1935) 52 °C LR 157, at p. 186; 41 A LR 157, the p. 166.

Scope of power to make inspection laws discussed by High Court Tasmana v. Victoria, (1935) 52 °C LR 157, 41 A LR 157

(b) Distinction between "customs duties" which may be imposed by the Commonwealth and whether the contraction of the con

(b) Distinction between "customs duties" which may be imposed by the Commonwealth and "charges" which may be imposed by a State, pointed out by Barton, J., in Attorney-General of New South Wales v Collector of Customs for New South Wales, (1908) 5 C.L.R. 818, at p. 838, 14 A.L.R. 516, at p. 522

Intoxicating liquids.

113.(a) All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage. shall be subject to the laws of the State as if such liquids had been produced in the State.

Notes of Cases—(a) Held by Higgins, J. (High Court), that while this section empowers a State to legislate with respect to intoxicating liquids imported into a State as fully as with respect to intoxicating liquids produced in the State, it does not authorize a discrimination between imported intoxicating liquids and those produced in the State, adverse to the former Fox v. Robbins, (1908) 8 C.L. R. 115, 15 A.L.R.

112.

Effect of the enactment of this section upon the construction of s 92 as to the freedom of inter-State trade considered by High Court Duncan v State of Queensland, (1916) 22 C L R 556, at pp. 589 et seg. 618, 22 A L.R. 465, at pp. 479 et seg., 490; W. & A. McArthur Ltd. v. State of Queensland, (1920) 28 C.L.R. 530, 27 A.L.R. 130 (overruing Duncan v State of Queensland, supra)

Effect of section discussed by High Court Exparte Nelson (No. 1), (1928) 42 C.L.R. 209, at p 240, 35 A J. R 21 at n 31

As to reading this section with s. 92, see *ibul*. See *per* Latham, CJ., in R. v Buryess . Ex parte Henry, (judgment delivered 10th November, 1936)

States may not raise forces. Taxation of property of Commonwealth

114. (a) A State (b) shall not, without the consent (c) of the Parliament of the Commonwealth, raise or maintain any naval or military force, (d) or impose(e) any tax(f) on property(g) of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property(h) of any kind belonging to a State.(1)

Notes of Cases —(a) As to the effect upon the doctrine of implied powers of the inclusion of this section in the Constitution, see Municipal Council of Sydney v. Commonwealth, (1904) 1 C L.R. 208, at p 236; 10 A.L R. (C N) 29; Webb v. Outtrim, 1907 A C. 81; 4 C L.R. 356; 13 A L R. (C N) 1.

As to whether the inclusion of this section in the Constitution has had the effect of exhaustively defining the prohibitions upon the exercise of State powers, see *Baster v. Commissioners of Taxation (N.S.W.)*, (1907) 4 C L R 1087, at p 1126, 13 A L R. 313, at p. 329.

As to the royal prerogative as to war being exercisable by the Governor-General and his Federal Ministers, and not by State Ministers, see Joseph v. Colonial Treasurer (N.S.W), (1918) 25 C L R 32, at p 51, 24 A.L.R. 185, at p. 193.

Held by the High Court that, it having once been ascertained in accordance with the rules of construction laid down by the Privy Council in Webb v Outrim, 1907 A.C. 81, 4 C.L.R. 356; 13 A.L.R. (C.N.) 1; and Attorney-General for Commonwealth v. Colonial Sugar Refining Co., 1914 A.C. 237; 17 C.L.R. 644; 20 A.L.R. 22, as the rules to be applied in construing the Constitution, that a power has been conferred on the Parliament of the Commonwealth by the Constitution, no implication of a prohibition against the exercise of that power can arise, nor can a possible abuse of the power narrow its limits. Amalyamated Society of Engineers v. Adelande Steamship Co. Ltd., (1920) 28 C.L.R. 129, 26 A.L.R. 387

(b) Reference to States in this section cited in support of the view that when the Constitution means that the powers conferred on the Parliament of the Commonwealth shall not be applied to State operations, the Constitution expressly save so Merchant Service Guild of Australasia v Commonwealth Steamship Owners Association (No 2), (1920) 28 C L R 436, at p 451, 27 A L R 161, at p 164

(c) As to the nature of the "consent" contemplated by this section, see Municipal Council of Sydney Commonwealth, (1904) 1 C.L.R. 208, at pp. 217, 232, 236; 10 A.L.R. (C.N.) 29.

(d) Section cited by Isaacs, J, in support of the view that the legislative power conferred upon the Parliament of the Commonwealth by s. 51 (vi) is exclusive. Farey v Burrett, (1916) 21 C.L.R. 433, at p 452, 22 A L R 201, at pp. 208-9

As to the power of the Commonwealth to bring a suit under s 75 (ii) against a State for a breach of this section, see Commonwealth v New South Wales, (1923) 32 C L R 200, at p 213, 29 A L.R. 289,

(e) As to the meaning of "impose" in this section, (i.e., whether prospective only), and as to when municipal rates are imposed under a law passed before Federation, see Municipal Council of Sydney v. Commonwealth, (1904) 1 C L.R. 208, at pp. 229, 230, 234, 236, 241-2, 10 A L.R. (C N.) 29.

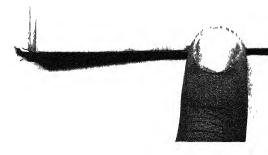
(f) Held by the High Court that to levy a municipal rate upon Commonwealth property is to impose a tax within the meaning of this section Municipal Council of Sydney v. Commonwealth, (1904) 1 C L.R. 208, 10 A L.R. (C.N.) 29

Held by the Full Court of the Supreme Court of Queensland that the lessee of land leased by a private individual from the Commonwealth of Australia, the owner of the land, is not rateable under *The City of Brisbare Act* of 1924, the land itself not being rateable land within the meaning of that Act. Case of Municipal Council of Sydney v. Commonwealth (1 C L R 208, 10 A.L R. (C N) 29) discussed. Couldrake v. Brisbane City Council, (1928) 22 Q.J P.R 34.

(g) Held by the High Court that a receipt given by an officer of the Commonwealth upon payment of his salary is not property of the kind intended in this section, which appears to refer to taxation imposed upon property grae property. D'Emden v Pedder, (1904) I C.L.R. 91; Io'A.L.R. (C.N.) 30.

As to a heence fee payable on a heence to drive a motor car not being a tax on property within the meaning of this section, see Pirre v. McFarlane, (1925) 36 C L.R. 170, at p. 201; 31 A.L.R. 365, at p 377

(h) As to whether customs duties are a tax on property within the meaning of this section, see Attorney-General of New South Wales v Collector of Customs for New South Wales, (1903) 3 S.R. (N.S.W.) 115; Attorney-General of New South Wales v. Collector of Customs for New South Wales, (1908) 5 C.L.R. 818; 14 A.L.R. 516. See also Huddart Parker. Co. Pty. Ltd. v. Moorehead, (1909) 8 C.L.R. 330, at p. 413. 15 A.L.R. 241, at p. 272.



(i) Held by the High Court that the provisions of a 26 of the Land Tax Assessment Act 1910 do not amount to a tax on property of the State within the meaning of this section Osborne v. Commonwealth, (1911) 12 (*L.L. 321., 17 A.L.R. 242

Held by the High Court that the Land Tax Assessment Act 1910-1914 Held by the High Court that the Land Tax Assessment Act 1910-1914—in so far as it purports by s 29 to impose land tax upon leasehold estates in Crown lands—is not invalid under this section as imposing a tax upon property belonging to a State Autoney-General for Queensland v Attorney-General for the Commonwealth, (1915) 20 C L.R. 148, 21 A L.R. 221. Special leave to appeal to the Privy Council after full argument Attorney-General for Queensland v. Attorney-General for the Commonwealth, (1916) 22 C L R 322, 23 A L R. 85.

As to thether the express immunity given to a State by this section should be treated as excluding any implication of immunity from laws as to conciliation and arbitration, see Federated Municipal and Shire Council Employees' Union of Australia v Melbourne Corporation, (1919) 26 C L R 508 at p. 539, 25 A.L.R. 309, at p. 321

As to the power of a State to bring a suit under s 75 against the Commonwealth for a breach of this section, see Commonwealth v. New South Wales, (1923) 32 C L R. 200, at p 213, 29 A L R 289, at p. 294

115. (a) A State shall not coin money, nor make anything but gold states not to and silver coin a legal tender in payment of debts.

Notes of Cases—(a) Section cited by Grifith, CJ. Barton and O'Connor, JJ, in support of the view that even though, like the American Constitution, the Australian Constitution contained express prohibitions, it might also be regarded as containing implied prohibitions. Baxler v Commissions of Taxation (N.S.W), (1907) 4 C L R 1087, at p. 1128, 13 A L R 313, at p. 330 (But see Amalgumated Society of Engineers v Adelaide Steamship Co Ltd., (1920) 28 C L R 129, 26 A L.R. 337).

As to the question whether an alleged violation by a State of the provisions of this section would involve a question as to the limits inter se of the constitutional powers of the 'commonwealth and those of that State, see James v Couan, 1932 A C 512, at p. 360, 47 C L.R. 386, at p. 398; 38 A L R. 334, at p. 339

116. (a) The Commonwealth shall not make any law for establishing Commonwealth any religion, or for imposing any religious observance, or for prohibiting in respect of the free exercise of any religion, (b) and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

NOTES OF CASES—(a) Section cited by Griffith, C.J., Barton and O'Connor, JJ, in support of the view that even though, like the American Constitution, the Australian Constitution contained express problintions, it night also be regarded as containing implied prohibitions. Baxter v. Commissioners of Taration (N.S.W.), (1907) 4 C.L.R. 1087, at p. 1128, 13 A.L.R. 313, at p. 330. (But see Amalgamated Society of Engineers v. Adelande Steuenship Co. Ltd., (1920) 28 C.L.R. 129. 26 A.L.R. 337.

Section cited by Griffith, C.J., in support of the view that the Federal Executive cannot appoint a Royal Commission to inquire into matters information as to which is relevant only to a possible alteration of the Constitution under s. 128. Colonial Sugar Refining Co. Ltd. v. Attorney-General for the Commonwealth, (1912) 15 C.L.R. 182, at p. 195., 18 A.L.R. 429, at p. 434. See also 1914 A.C. 237; 17 C.L.R. 644; 20 A.L.R. 22

Held by the High Court that the recovered of the Commonwealth of the Court that the recovered of the Commonwealth.

A.L.R. 22
Held by the High Court that the provisions of the Defence Act 1903-1910 imposing obligations on all male inhabitants of the Commonwealth in respect of military training do not prohibit the free exercise of any religion, and are therefore not an infringement of this section. Krygger v. Williams, (1912) 15 C.L.R. 366, 18 A.L.R. 518

Per Higgins, J. If abstention from voting were part of an elector's religious duty, as it appeared to the mind of the elector, this would be a valid and sufficient reason for his failure to vote, in view of the provisions of this section. Judd v. McKeon, (1925) 38 C.L.R. 380, at p. 387; 32 A.L.R. 389, at p. 392.

See per Latham, C.J., in R. v. Burgess. Ecoparte Henry, (judgment delivered 10th November, 1936)

117. (a) A subject of the Queen, resident in any State, shall not be Rights of subject in any other State to any disability or discrimination which residents in States. would not be equally applicable to him if he were a subject of the Queen resident in such other State.

Notes of Cases.—(a) Held by the High Court that the real ground of the discrimination prescribed by the Administration Act 1903 (W.A.), s. 86, was domicile and not residence, and that therefore the enactment was not void under this section as setting up a discrimination between the residents of different States. Davice & Jones v. Western Australia, (1904) & C. L. R. 29; 11 A. L. R. 73.

Section cited by Griffith, C.J., Barton and O'Connor, JJ, in support of the view that even though, like the American Constitution, the Australian Constitution contained express prohibitions, it might also be regarded as containing implied prohibitions. Baxiev v. Commissioners of Taxation (N S W), (1907) 4 C.L.R. 1087, at p. 1128; 13 A.L.R. 313, at p. 330. (But see Amalgamated Society of Engineers v. Adelaide Steamship Co. Ltd., (1920) 28 C.L.R. 129; 26 A.L.R. 337)

Held by the High Court that this section only applies to a person who, being resident in one State, is seeking to assert rights in another. Lee Fay v. Vincent, (1908) 7 C.L.R. 389; 15 A.L.R. 35

As to whether a State Act making it an offence for a person, who has been convicted in one State of an offence punishable by imprisonment for twelve months, to enter another State, is valid in view of this section see R v Smithers; Exparte Benson, (1912) 16 U L R 99, 19 A L R 200

Fact that the nature of the discrimination forbidden by this section is a discrimination based on residence, pointed out by the High Court—James v Commonwealth, (1928) 41 C.I. R 432, at pp 457, 464

Held by the Full Court of the Supreme Court of Queensland that notwithstanding anything contained in the Income Tax Acts (Q.) it is the duty of the Highstrates Court to give full effect to this section, and that the protection afforded by this section is absolute and cannot be fettered, controlled or interfered with by the legislation of a State Commissioner of Taxes, Qd. v. Parks, 1933 St. R Qd., 306, 2 A.T.D. 349.

Meaning of "resident" discussed in relation to the case of a person employed on an interstate vessel, who in the course of his duty was absent for the greater portion of the year from the State in which his home was situated. Ibid

Recognition of laws, &c., of States.

118. (a) Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public Acts and records, and the judicial proceedings of every State.

Notes of Cases — (a) Question of application of section discussed by High Court Jones v Jones, (1928) 40 C L R. 315; 34 A.L R. 45.

Construction of section discussed by the Full Court of the Supreme Court of South Australia In re Commonwealth Agricultural Service Engineers Ltd., 1928 S A.S.R. 342

Per Rich, Dixon and Evatt, JJ Observations on the effect of this section in relation to the question whether, in an action in a State Court on a contract the proper law of which is that of another State of the Commonwealth, the Court can refuse to recognize a statute of that other State on grounds of public policy. Mervin Pastoral Co. Pty. Ltd. v Moslya Pastoral Co. Pty Ltd. v. McKindlay, (1933) 48 C L.R. 565, 39 A L.R. 401.

Protection of States from invasion and violence.

119. (a) The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

NOTES of CASES—(a) Section cited by Isaacs. J, in support of the view that the legislative power conferred upon the Parhament of the Commonwealth by s 51 (vi) is exclusive. Farey v. Burnett, (1916) 21 CL R. 483, at p 452; 22 A L R 201, at pr 208-9

As to the royal prerogative as to war being exercisable by the Governor-General and his Federal Ministers, and not by State Ministers, see Joseph v Colonial Treasurer (NSW.), (1918) 25 CLR 32, at p. 51; 24 A L R 185, at p 193

Per Isaacs, J (dissenting) A soldier acting for the purposes of this section is acting not in his capacity of State citizen but as a soldier of the Commonwealth Purpose McFarlane, (1925) 36 C.L.R 170, at p. 206; 31 A LR 365, at p 379.

Custody of offenders against laws of the Commonwealth.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

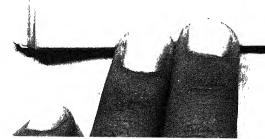
CHAPTER VI. NEW STATES

CHAPTER VI.—NEW STATES.

New States may be admitted or established.

121. The Parliament may admit to the Commonwealth or establish new States,(1) and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

GENERAL NOTES.—(1) The Parlian: and not, up to the date of the preparation of this volume, admitted or established any new States,



122.(1) The Parliament may make laws for the government of any government of territory(a) surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, (b) or otherwise acquired by the Commonwealth, (c) and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.(3)

GENERAL NOTES—(4) The following territories have been accepted or otherwise acquired by the Commonwealth.—

The Territory of Papua (See Papua Act 1905-1934)
The Northern Territory of Australia (See Northern Territory Acceptance Act 1910-1919, as amended by the Northern Australia Act 1926 See also the following Northern Territory Administration Acts.—No 27, 1910, No 19, 1926, No 5 and 7, 1931, and No 18, 1933)
The Territory of Norfolk Island (See Norfolk Island Act 1913-1935)
The Jevis Bay Territory (See Jerr's Lay Territory Acceptance Act 1915)
The Territory for the Seat of Government (See Seat of Government Acceptance Act 1918-1933)
The Territory of Ashmore and Cartier Islands (See Ashmore and Cartier Islands Acceptance Act 1933)

1033)

The Australian Antaictic Territory (See Australian Amarciic Territory Acceptance Act 1933.)

In addition, the Commonwealth has a mandate (known as a Class C mandate) for the government of the Territories and Islands formerly constituting German New Guinea, and has, by the New Guinea Act 1920–1935, made provision for the government of those Territories and Islands By s. 4 of that Act the Commonwealth has declared the Territories and Islands in question to be a Territory under the authority of the Con-monwealth, by the name of the Territory of New Guinea

(*) By the Northern Territory Representation Act 1922-1925 the Parliament has allowed the representa-tion of the Northern Territory in the House of Representatives by one member, who has the right to speak

None of the other Territories referred to in Note (1), supra, had, at the date of the preparation of this volume, any representation in either House of the Parliament

Notes of Cases - (a) Held by the High Court that the limitations imposed by a 55 of the Constitution

Notes of Cases — (a) Held by the High Court that the luminations imposed by a 55 of the Constitution upon the making of laws imposing taxation apply only to such laws as are made under the power conferred by 51 (i), and do not apply to thaw made under this section for the government of territories **Buchanan** Commonwealth*, (1913) 18 C L R 315, 19 A L R 251

Held by the High Court that the power conferred on the Commonwealth Pallament by this section to make laws for the government of a territory, whether that power is exercised directly or through a subordinate legislature, is not restricted by the provision that the trial on indictment of any offence aga instany law of the Commonwealth shall be by lury **R v Bernascona*, (1915) C L R 629, 21 A L R 86

Held by the High Court (Isaacs, Higgins, Rich and Starke, JJ Knox C J and Gavan Duffy, J, dissenting) that in exercise of the power conferred by this section the Parliament of the Commonwealth may confer upon the High Court jurisdiction to entertain an appeal from a Court established by the Parliament in a territory, notwithstanding that the Court so established is not a federal court within the meaning of 5 71 of the Constitution **Porter v R*, Exparte Viee*, (1926) 37 C.L.R. 432, 32 A.L R 144.

As to the Court of a Territory being invested with Federal jurisdiction by virtue of laws made under this section, see *Wall v R*, Exparte Viee*, (1926) 37 C.L.R. 432, 32 A.L R 144.

As to the Court of a Territory being invested with Federal jurisdiction by virtue of laws made under this section, see *Wall v R*, Exparte Viee*, (1927) 39 C L.R. 425, at p 262 33 A.L. R 100, at p 107

As to whether the legislature is empowered by this section to invest the High Court with original jurisdiction in respect of the Territory for the Seat of Government, see *Federal Capital Commission* v. Laristan Buildian and Investment Co Pity Ltd*, (1929) 42 C L R 582, at p 585

Held by the High Court that s 4 of the Astr Nawigation Act 1920, in so far as it relates to aviation within the T

(b) As to the position of a territory placed by the Queen under the authority of the Commonwealth, but not yet accepted by the Commonwealth, see Strachan v Commonwealth, (1906) 4 C L R 455, at p 465; 13 A L.R 631, at p 634

(c) As to whether the power of the Commonwealth to legislate with respect to the mandated territory of New Guinea is derived from this section, see Mainla v Custodian of Expropriated Property, (1921) 34 CLR. 297 at p 300; 31 A.LR 1, at p 2; Jolley v Mainla (1933) 49 CLR 242. at pp. 250, 256, 278-9, 289, 39 A.LR 506, at pp 508, 510, 519-20, 524.

123. (1) The Parliament of the Commonwealth may, with the consent Alteration of limits of States. of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

General Notes —(1) The powers contained in this section had not been exercised by the Parliament of the Commonwealth up to the date of the preparation of this volume

Formation of new States

124.(4) A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States. but only with the consent of the Parliaments of the States affected.

GENERAL NOTES —(*) No new State had, up to the date of the preparation of this volume, been formed in pursuance of this section.

CHAPTER VII MISCRITIAN ONS

Seat of

Government

CHAPTER VII.—MISCELLANEOUS.

125. (a) The seat of Government of the Commonwealth shall be determined by the Parliament, (1) and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, (b) and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the Seat of Government.(2)

GENERAL NOTES—(1) By the Seat of Government Act 1904 it was determined that the Seat of Government of the Commonwealth should be within seventeen miles of Dalgety, in the State of New South Wales, and that the Territory to be granted to or acquired by the Commonwealth should contain an area of not less than nine hundred square miles, and have access to the sea.

By the Seat of Government Act 1908 the Seat of Government Act 1904 was repealed, and it was determined that the Seat of Government of the Commonwealth should be in the district of Yass-Canberra in the State of New South Wales, and it was enacted that the Territory to be granted to or acquired by the Commonwealth for the Seat of Government should contain an area not less than nine hundred square miles, and have access to the sea

wealth for the Seat of Government should contain an area not less than nine hundred square miles, and have access to the sea.

By the Seat of Government Acceptance Act 1909, an agreement between the Commonwealth and the State of New South Wales relating to the surrender by the State and acceptance by the Commonwealth and an area of about nine hundred square miles, was rathled and confirmed, and it was declared and determined that the Seat of Government should be in the territory described in the agreement. The transfer of the territory to the Commonwealth took effect on and from 1st January, 1911.

The name of "Canberra" was given to the Seat of Government on 12th March, 1913.

(*) The Parliament met at the Seat of Government on 9th May, 1927.

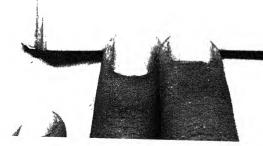
Notes of Cases—(a) As to the exclusive nature of the legislative power of the Parliament of the Commonwealth with respect to the Territory for the Seat of Government, see In re Income Tax Acts (No 4), Wollaston's Case, (1902) 28 V.L R. 357, at p. 376; 8 A L R. 188, at pp. 192-3; 24 A L T. 63, at p. 66. As to whether the legislature is empowered to invest the High Court with original jurisdiction in respect of the Territory for the Seat of Government, see Federal Capital Commission v. Laristan Building and Investment Co. Pty. Ltd., (1929) 42 C L R. 582, at p. 585

(b) As to whether the words "shall be in the State of New South Wales" relate to the geographical boundaries of the State, see R = R + R v Bamford, (1901) 1 S R (N S W) 337

Power to Her Majesty to authorize General to appoint deputies.

126. The Queen may authorize the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies (1) within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

GENERAL NOTES.—(1) By Clause VI. of the Letters Patent dated 29th October, 1900, constituting the office of Governor-General and Commander-m-Chief of the Commonwealth of Australia, Her Late Maje-ty, Queen Victoria, authorized and empowered the Governor-General to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part of the Commonwealth, and in that capacity to exercise, during his pleasure, such of his powers and functions as he might deem it necessary or expedient to assign to him or them For copy of Letters Patent in question, set Commonwealth Statutory Rules 1901–1927, Vol. IV., pp. 3622—4; Commonwealth Guzette, 1901, pp. 2-3.



127. In reckoning the numbers of the people of the Commonwealth, aborigines not to be counted in reckoning shall not be counted.

CHAPTER VIII.—ALTERATION OF THE CONSTITUTION.

128. (a) This Constitution shall not be altered (1) except in the following manner :-

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit(*) the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

GENERAL NOTES.—(1) The following are the only laws altering the Constitution which have been passed by the Parliament and approved by the requisite majority of electors prior to the date of the preparation of this volume -

Constitution Alteration (Senate Electrons) 1903 (No. 1, 1907)
Constitution Alteration (State Debts) 1909 (No. 3, 1910).
Constitution Alteration (State Debts) 1928 (No. 1, 1929).
Copies of these laws are reprinted herein, unfra, pp 114-116, and, in so far as they alter the Constitution textually, have been incorporated in this copy of the Constitution (see sections 13, 305, and 1051.)

CHAPTER VIII ATTERATION OF CONSTITUTION.

Mode of altering the Constitution.

For copies of all Bills which have been introduced into the Parliament of the Commonwealth from 1901 to 1935 for the alteration of the Constitution, and the Parliamentary history of each Bill, and (where submitted to the electors) the voting thereon, see Appendix D. mfra. pp 197-272.

(*) The only occasion upon which one House twice passed Bills to after the Constitution (the interval required by this section having elapsed between the first and the second passage of the Bills), and the other House twice failed to pass the Bills was in 1914 when ix Bills, which had been passed by the Senate in 1913 and not passed by the House of Representatives, were again passed by the Senate House of Representatives, again fulling to pass the Bills, the Senate resolved that an Address should be presented to His Excellency the Governor-General, requesting that His Excellency be pleased to submit the proposed laws to the Electors. The Address was presented to His Excellency, but the request was refused. The proposed laws in question are contained in Appendix D. to this volume, see Bills Nos 26 to 31 inclusive and footnote to Bill No. 26.

Notes of Cases—4(a) Section cited as a reason why United States Cases relating to the immunity of instrumentalities should not be followed, this section providing a much easier method of protection of the Commonwealth against the States than is provided by the corresponding provisions of the United States Constitution. In Technome Tax Acts (No. 4) Wollaston's Case, (1902) 28 V LR 357, at p. 383, 8 A LR 188, at p. 195., 24 A L T. 63, at p. 60.

As to whether Parliament may confer upon a Royal Commission power to compel persons to give evidence on matters, informat on as to which is relevant only to a possible alteration of the Constitution under this section, see decision of High Court in Colonial Sugar Refining Co. Ltd., 1914 A C. 237, 17 C L R. 644, 20 A.L R. 22.

SCHEDULE

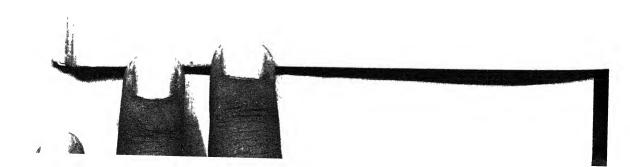
OATH.

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. So HELP ME God!

AFFIRMATION

1, A.B., do solemnly and sincerely affirm and declare that I will be faithful and Lear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

(Note —The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.)



SUPPLEMENTARY NOTES OF CASES.

Note —These notes are arranged under the following sub-headings — Immunity of Instrumentalities and Implied Prohibition Applicability of American and Canadian decisions Applicability of American and Canadian decisions
Constitution a compact between Australian colomes
Meaning of Act—how ascertained
General provisions as well as particular sections to be regarded
Meaning of terms in Constitution—that in 1900
Regard to be had to laws modified by Constitution
Words to be given their plain and natural meaning
Regard to be had to substance rather than to form
Indirect effect and motive of Act irrelevant
Reference to draft Constitution Bills
Reterence to Convention or Parliamentary debates
Maxinis applicable in interpretation of Constitution
Distribution by Constitution of legislative, executive and judicial powers
Extra-territorial operation of Commonwealth Acts
Tests of validity of Acts
Onus on person asserting validity of Commonwealth Acts Onus on person a serting validity of Commonwealth Acts Test of severability Application of provisions of Constitution to Commonwealth and States Power of the Legislature to delegate Power of Commonwealth to pass criminal laws Power of Commonwealth to pass criminal laws Common law of the Commonwealth

Immunity of Instrumental ities and Implied Prohibition

Immunity of Institute and Implied Prohibition

Held by the Full Court of the Supreme Court of Victoria (in a case relating to the hability of a Commonwealth public servant to pay Stafe income can upon his official salary earned within the State) that, in view of the United States to Stafe however our has power to de-silow Commonwealth and State the Constitution provides a mucle caser method of amending the Constitution than that when he recipiled to the Constitution provides a mucle caser method of amending the Constitution than that when prevailed in the United States, the United States doctine of implied prohibitions in of applicable in the interpretation of the Commonwealth Constitution. In the Income Tites Act (No 4) Wolfston's case, (1902) 28 V.L.R. 357, S.A.L.R. 188, 24 A.L.T. 63

Held by the High Court that when a State attempts to give to its legislative or eventive authority an operation which, if valid, would letter, control, or interter with the free excress of the legislative and portation of the Commonwealth, in the Commonwealth, in the States of the Constitution of the Commonwealth of the Authority of the Commonwealth, the attempt, unless expressly authorized by the Constitution, in the Commonwealth of the Common

Immunity of Instrumentalities and Implied Prohibition-continued

of the constitutional powers of any two or more States, unless it was of opinion that the question at issue in any particular case was one upon which it should subunit itself to the guidance of the Privy Council. Baster v Commissioners of Tazation (N S W), (1997) 4 C. L. B. 1087; 13 A. L. R. 313.

Held therefore (per the same Justices) that the High Court was not bound to follow the decision of the Privy Council in Webb v Outtrim, but should follow its own considered decision in Deakin v Webb. Lyne v Webb, unless, upon a reconsideration of the question for whatever reason. It should come to a different conclusion. Held also that, assuming the fact that the Privy Council had given a decision in direct conflict with the High Court, there was nothing in the reasons of the Judicial Committee to throw any new light on the question involved, either with regard to the necessity for the implication of the rule of implied prohibition land down in McCulloch v. Maryland and adopted in Deakin v Webb, or as to the applicability of the rule to the particular question. The rule in D'Emden v Pedder was accordingly resilienced Ibid.

Held (per Isaves, J) that apart from any consideration of the history, the words of s. 74 are clear and strong enough to lead to the conclusion that on questions coming within the section the decision of the Privy Council upon any such question, but the respect and weight due to the judgment of the Privy Council made it the duty of the High Court under the circumstances to reconsider the question of the Privy Council upon any such question to the crossideration, in the light of the decision in Webb v. Outtrim, (1907) A C, 81, leaves the authority of D'Emden v Pedder, 1 C'L R 585, unimpaired, but the Land and Income Taz Act of New South Wales, considered apart from authority cannot be regarded as an infingement of the rule of non-interference laid down in the latter case. Ibid.

Held (per Higgins, J) that the only dimminution of the prerogative right of the King in Council to entertain appeals from

(a) whether the principle laid down in McCullock v Marylan1 applied to the Australian Constitution,
(b) whether the Victorian Income Tax Acts in so far as they applied to Commonwealth officers, were an infringement of that principle, and
(c) whether the Victorian income tax being collected after the salaries were paid, was an interference with Coderal instrumentalities.

with federal instrumentalities

It was claimed by those applying for the certificate that the granting of the certificate was the only mode of putting an end to an intolerable postion, namely, the existence of two interpretations of the Constitution differing vitally and fundamentally from one another. The application was unaminously refused by the High Court, some of the Justices punting out that the difficulty arising out of the conflicting decisions of two Courts of Appeal on this question could be met by the Federal Parliament legislating in two directions two directions

by making the appellate jurisdiction of the High Court exclusive of the appellate jurisdiction
of the State Supreme Court in some or all of the matters called federal jurisdiction; and
 by making the grants to Commonwealth public servants subject to the right of the States to

Flint v Weth, (1907) 4 C L.R. 1178; 13 A L.R. 348

By legislation passed in 1907 the Commonwealth adopted these two suggestion. By the Judiciary 4ct 1907 it made the jurisdiction of the High Court exclusive of that of the Supreme Courts of the States in all questions as to the limits inter se of the constitutional powers of the Commonwealth and those of any State or States, or as to the limits inter se of the constitutional powers of any two or more States by prowding for the automatic removal to the High Court of any cause pending in the Supreme Court of any State in which there had arisen any such question. By the Commonwealth Salaries Act 1907 provision was made permitting the taxation by a State, under certain conditions, of the official salaries of officers of the Commonwealth in residing in that State and of the allowance of Commonwealth Ministers and Members of Parliament representing that State. (Validity of Commonwealth Salaries Act 1907 upheld in Chaplin v. Commissioner of Taxes for South Australia, (1911) 12 C.J. R. 375, 17 A.L.R. 422)

After the passage of this legislation, an application was made to the Privy Council for leave to appeal to the Privy Council from the judgment of the High Court in the case of Baxter v. Commissioners of Taxation (N.S.W.), supra and the leave was refused, the Privy Council holding that the amount at stake was inconsiderable and that the controversy had been closed by the passage of the Commonwealth Salaries Act 1907 referred to above. Commissioners of Taxation (N.S.W.) v. Baxter and Webb v. Flint, 1908 A.C. 214; 5 C.L.R. 398.

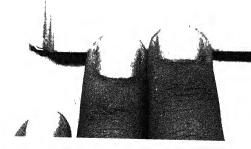
Act 1907 referred to above. Commussioners of Taxation (N.S. W) v. Baxtes and Webb v. Flint, 1908 A.C. 214; 5 C.L.R. 398.

Question as to whether a local authority had power to make by-laws binding on Commonwealth, discussed by High Court, but decided on grounds not involving the interpretation of the Constitution Roberts v. Ahern, (1904) 1 C.L.R. 406; 10 A L.R. 162.

As to whether a State may impose on a Federal Officer a tax calculated on an income assumed from the annual value of the officer's residence, see R. v. Bowden, (1905) 1 Tas. L.R. 149

As to whether the Tasmanian Rifle Association is an instrumentality of the Commonwealth, and as to whether a bequest to it is liable to taxation by the State. see Re Gardner, (1919) 15 Tas. L.R. 78

Held by the High Court (Griffith, C.J., Barton and O'Connor, J.J) that the rule of non-interference by States with the Commonwealth was reciprocal, and applied to prevent attempted interference by the Commonwealth with State instrumentalities. Federates Amalgamated Government Raulway and Transacus Service Association v. New South Wales Railway Traffic Employees Association, (1906) 4 C.L.R. 488, 13 A.I.R. 273.



Immunity of Instrumentalities and Implied Prohibition-continued

Held also that the State Railways were functions of Government, and that the Commonwealth Conciliation and Arbitration and 1904, so far as it purported to affect State railways, was ultra vires and

Concitation and Arbitration Act 1904, so far as it purported to affect State railways, was ultra vires and void Irid Held by the High Court that the rule laid down in D'Emden v Pedder had no application to powers which are conferred upon the Commonwealth in express terms, and which by their nature manifestly involve control of some operation of the State Government, such as the power to make laws with respect to trade and commerce with other countries and with itsepect to corporations Attorney-General of New South Wales v. Collector of Customs (N S W) (1908) 5 C L R 318, 14 A L R 516. See also R v Station, (1908) 5 C L R 318, 14 A L R 516. See also R v Station, (1908) 5 C L R 338, 14 A L R 516. See also R v Station, (1908) 5 C L R 338, 14 A L R 516. See also R v Station, (1908) 5 C L R 338, 14 A L R 516. See also R v Station, (1908) 5 C L R 338, 14 A L R 516. See also R v Station, (1908) 5 C L R 338, 14 A L R 516. See also R v Station, (1908) 5 C L R 338, 14 A L R 516. See also R v Station, (1908) 5 C L R 338, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516. See also R v Station, (1908) 5 C L R 348, 14 A L R 516

1909 A C 345, 38 C L R 593

(NCTE.—The decision of the High Court in Attonney-General of New South Wales v Collector of Customs (N S W) (sugrae) overruled a previous decision to the contrary, given by the Full Court of the Supreme Court of New South Wales, in Attorney-General of New South Wales v Collector of Customs (N S W) (sugrae) overruled a previous decision to the contrary, given by the Full Court of the Supreme Court of New South Wales, in Attorney-General of New South Wales v Collector of Customs (N S W), (1903) 3 S R (N.S.W) 115)

Held by the High Court that the Sydney Water Supply and Sewerage Board is in effect a Department of State Government, and therefore exempt from the jurisdiction of the Commonwealth Court of Conciliation and Arbitration, but that, whatever be the position of a municipal corporation in respect of its strictly governmental functions, a numerical corporation, in so far as it engages in a trading enterprise, e.g., the supply of electricity to those who choose to buy it, is not in respect of such anterprise exempt from federal legislation under the rule lad down in D'Emden v Peider Federated Engine-drivers' and Firement's Association of Australiasia v Broken Hill Pty Co. Ltd. (1911) 12 C L R 398, 17 A L R 255 Doctaine of immunity of instrumentalities discussed by High Court Fed. sted Engine-drivers' and Firement's Association of Australiasia v Broken Hill Pty Co. Ltd. (1911) 12 C L R 398, at pp. 425-8, 441-3, Held by the High Court that a municipal corporation engaging in trading operations is subject to the drivers' and Firement's Association of Australiasia v Broken Hill Pty Co. Ltd., (1913) 16 C L R 245, 19 Held by the High Court (Isaacs, Higgins, Gavan Duffy, Powers and Rub. Lt. Grafith Ct. L. 245, 19 Held by the High Court (Isaacs, Higgins, Gavan Duffy, Powers and Rub. Lt.

juriquenon and want of the Commonwealth Court of Conciliation and Arbitration Federated Enginedrivers' and Firemen's 1-sciention of Justralasius v Broken Hill Ply Co Ltd., (1913) 16 CL R 245, 19

A LR 177

Held by the High Court (Isaacs, Higgins, Gavan Duffy, Powers and Rich, JJ., Griffith, CJ. and
Barton, J dissenting) that runnicipal corporations established under State laws are not, with regard to
the making, maintenance, control or lighting of public streets, instrumentalities of State government,
and therefore are not, in respect of such operations, exempt from Commonwealth legislation unders. 51

(xxxv) of the Constitution Federatel Muncipal and Shire Council Employees' Umon of Australia v
Mellourne Corporation, (1919) 26 CL R 508, 25 A LR 309

Held by the High Court (Barton, Isaacs, Cavan Duffy, Powers and Rich JJ., Higgins, J dissencing)
that the operations of the States of Victoria and New South Wales were not subject to the jurisdiction
of the Commonwealth Court of Conciliation and Arbitration in relation to the employment of persons in
wheat lumping and stacking in connexion with the Wheat Marketing Scheme, the operations of the States
in this respect being governmental and not trading Australian Workers Union v Adelaxie Muling Co
Ltd., (1915) 28 CLR 460; 25 A LR 243

As to whether a Commonwealth tax on Crown leaseholds would be invalid under the rule in D'Emden
Needler, see Attoricy-General for Queensland v Attoricy-General for the Commonwealth, (1915) 20

C LR 148, at pp 162-4, 21 A LR 221, at p 224 (As to this case see Amalgamated Soviety of Engineers
v Adelande Steumship Company Lamided, (19-0) 28 C LR 129, at p 15; 26 A LR 337, at p 340)
In 1920 there was brought before the High Court a case involving questions as to whether the
Commonwealth Conclutation and Arbitration Act applied to industrial disputes exiting between certain
trading organization is of States and their employees.

In its judgment in this case (known as the Empineers' Case), the Court by a majority (Knox, C J,
Jeases Higgins,

The Court also decided in this case that-

(a) The Commonwealth of Australia Constitution Act, being passed by the Imperial Parliament for the express purpose of regulating the royal exercise of legislative, executive and judicial power throughout Australia; is by its own inherent force binding on the Crown to the extent

power throughout Australa, is by its own inherent force binding on the Crown to the extent of its operation;

(b) The Constitution, as it exists for the time being dealing expressly with sovereign functions of the Crown in its relation to the Commonwealth and the States necessarily so far binds the Crown; and laws validly made under the authority of the Constitution bind, so far as they purport to do so, both the Crown in right of the States and subjects;

(c) Where the affirmative terms of a power stated in the Constitution would justify an Act of the Parliament of the Commonwealth, it rests upon those, who rely on some limitation or restriction of the power, to indicate it in the Constitution.

(d) Section 107 of the Constitution continues the previously existing powers of the Parliaments of the States to legislate with respect to State exclusive powers and State powers which are concurrent with Commonwealth powers, but does not reserve any power from the Commonwealth which falls fairly within the explicit terms of an express grant in a 51, as that grant is reasonably construed, unless that reservation is as explicitly stated;

(e) Section 109 of the Constitution gives supremacy to every Commonwealth Act over every State Act, whether the latter be passed under a concurrent power or under an exclusive power, if any provisions in the two conflict;

(f) The rule laid down in D'Emden v. Pedder (supra) on the basis of the supremacy of Commonwealth legislation created by s 109 of the Constitution, is sound

Immunity of Instrumentalities and Implied Prohibition -continued.

In the same case, the Couri overruled the cases of Deakin v Webb and Bartler v Commissioner of Taxation (NSW) (supra), in so fat as they decided that the taxation by a State of money received by a Federal officer as salary from the Commonwealth is invalid as being an interference with a Federal instrumentality. It addition, the Court overruled the case of Federated Amalgamated Government Railway and Tramway Service Association v New South Wales Railway Traffic Employees' Association (supra). See Amalgamated Society of Engineers v. Adelaide Steamship Co Ltd reported in (1920) 28 C.L.R. 129; 26 ALR 337

An application was made to the High Court on behalf of the Minister for Trading Concerns, Western Australia for a certificate under s. 74 of the Constitution that the matter in issue in this case was one which ought to be determined by the Privy Council, but the application was refused by the High Court. Analgamated Society of Engineers v Adelande Steamship Co. Lid. (1921) 26 Li R. 406.

The Minister for Trading Concerns, Western Australia, and the Attorney-General for Tagmania, subsequently petitioned the Privy Council to grant special leave to appeal from the decision of the High Court, but leave was not granted Minister for Trading Concerns v Amalgamated Society of Engineers, 1923 A C 170

In the Engineers, case (surge), the High Court leid it down that "it is the chief and granted divine the life."

1923 A C 170

In the Engineers' case (supra), the High Court laid it down that "it is the chief and special duty of this Court faithfully to expound and give effect to it (i.e., the Constitution) according to its own terms, finding the intention from the words of the compact, and upholding it throughout precisely as framed "(28 C L R at p. 139).

It decided further that "for the proper construction of the Australian Constitution it is essential to hear in much two cardinal features of our neithful extens which are interwoven in its tayture."

It decided further that "for the proper construction of the Australian Constitution it is essential to bear in mind two cardinal features of our political system which are interwoven in its texture" namely "the common severegipty of all parts of the British Empire" and "the principle of responsible government" (28 G L R. at p. 146, 26 A L R. at p. 341)

The Court etted with approval certain observations of Lord Haldane, L.C. in Vucher & Sons Ltd v London Society of Compositors, (1913 A C 107, at p. 113)—to the effect that "in endeavouring to place the proper interpretation on the sections of the Statute ... I propose therefore to exclude consideration of everything excepting the state of the law as it was when the statute was passed, and the light to be got by reading it as a whole, before attempting to construe any particular section. Subject to this consideration, I think that the only safe course is to read the language of the statute in what seems to be its natural sense." (28 C L R at p. 149 26 A L R at p. 342). Also the principles stated by Lord Selborne in R v Burah, 3 App Cas 889, at pp 904-905, that "the established Courts of Justice, when a question arises whether the prescribed limits (i.e., of a legislative power) have been exceeded, must of necessity determine that question, and the only way in which they can properly do so is by looking to the terms of the instrument by when, affilmatively, the legislative powers were created, and by which, negatively, they are restricted." (28 C L R at p. 149; 26 A L R at p. 342).

The foregoing case—Amalgamated Society of Engineers v Adelande Steamship Co. Ltd.—was, at the date of the preparation of this volume, the leading case upon the subject of the principles of interpretation of the Constitution, but subsequently to the decision of that case the following intriner cases were decided, dealing with the application of Commonwealth laws and awards to State instrumentalities, or the application of State laws to Commonwealth instrumentalities —Merchain Service Gu

The following other cases on general principles of interpretation also call for mention :-

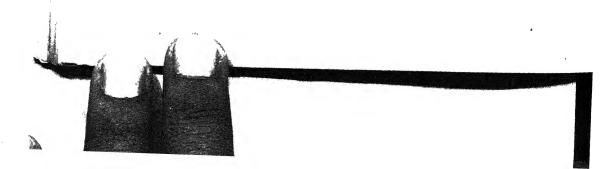
Applicability of United States and Canadian Jecisions.

Applicability of United States and Canadian Sections.

Question of the applicability, in the interpretation of the Commonwealth Constitution, of decisions on the United States and Canadian Constitutions, discussed. In re Income Tax Acts (No 4), Wallaston's Case, (1902) 28 V LR. 357, at pp. 378-88, 393-5; 8 a LR. 188, at pp. 193-7, 199; 24 à LT 63, at pp. 67-71, 72-3; Ex parte Goldring, (1903) 3 S R., N.S.W. 260, at pp. 264; D Enden v Pedder, (1904) 1 C LR 91, at pp. 111-8; 10 A LR (CN) 30, at p. 31, Municipal Council of Sydney v Commonwealth, (1904) 1 C LR 203, at pp. 257-8, 259-40, 10 A LR (CN) 29, Dealan v Webb 'Lyne v Webb, (1904) 1 C LR 585, at pp. 604-16, 628-5, 10 A LR. (2N), 23, at pp. 239-44, Robelmas v. Brenan, (1906) 4 C LR 395, at p. 401, 18 A LR. 168, at p. 169; Federated Anadgamated, &c., Association v. New South Wales Railinay Traffic Envilopees' Association, (1906) 4 C LR. 188, at p. 540, 13 A LR. 273, at p. 281, Webb v. Outtrem, 1907 A C 81, at pp. 88-91, 4 C LR. 368, at pp. 358-61; 18 A LR. (CN) 1, at pp. 1-2; Baxter v. Commissioners of Taxation, (NSW), (1907) 4 C LR. 1087, at pp. 1109-33, 1157-60, 1164-6; 12 A LR. 313, at pp. 322-31, 340-1, 348-4, Altorney-General of New South Wales v. Collector of Customs, New South Wales, (1908) 5 C LR. 818, at pp. 858-5, 14 A LR. 516, at pp. 528-9, R. v. Barger: Commonwealth v. McKay, (1908) 6 C LR. 818, at pp. 857-8; 14 A LR. 374, at p. 378, Attorney-General for New South Wales v. Collector of Customs, New South Wales v. Dealer Employees' Union of New South Wales, (1908) b C LR. 469, at p. 530, 14 A LR. 565, at p. 582, Federated Sawmill. Timber Yard and General Woodworkers' Employees' Association of Australiasa v. James Moore & Son Pty Lld. (1909) 8 C LR. 465, at pp. 509-10, 548-50, 15 A LR. 374, at pp. 384, 403-4; Altorney-General for the Commonwealth v. Colonal Sugar Refining Co. Ltd. 1914 A C 237, at pp. 384, 403-4; Altorney-General for the Commonwealth v. Colonal Sugar Refining Co. Ltd. 1914 A C 237, at pp. 385, 403-4; Altorney-General for the Commonwe

Constitution a compact between Australian Colonies

As to the Constitution being a compact between the stx Australian colonies which formed the Commonwealth, see Courses v. Commonwealth, (1906) 3 C.L.R. 529, at p. 539; 12 A L R. 175, at p. 178; Federated Analgamated Government Rathray and Tranneay Service Association v. New South Wales Railway Traffic Employees Association, (1906) 4 C L.R. 488, at p. 534; 13 A.L.R. 273, at p. 279; Amalgamated Society of Engineers v. Adelaide Steamship Co. Ltd., (1920) 28 C L R. 129, at p. 142; 26 A.L.R. 337, at p. 390



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Supplementary Notes of Cases—(continued).

Meaning of Act-how ascertained

Held by the High Court (Barton, J) that the spirit or meaning of an Act should be gathered from the instrument itself. Tasmania v Commonwealth and Victoria, (1904) 1 CLR 329, at pp 348, 358-9, 10 ALR (CN) 41, at p. 42

General provisions as well as particular sections to be regarded.

Held by the High Court (Griffith, CJ) that in construing a Constitution like the Commonwealth Constitution it is necessary to have regard to its general provisions as well as to particular sections. Peterswald ∇ Bartley, (1904) 1 C L R 497, at p 507, 10 A L R (C N) 65

Meaning of terms in Constitution-that in 1900

Meaning of terms in Constitution—that in 1900

Held by the High Court that the meaning of terms used in the Constitution must be ascertained by Held by the High Court that the meaning of terms used in the Constitution must be ascertained by South Wales (1908) 6 C L R 469, 14 A L R 505

See also Australian Bool Trade Employees' Federation v Whybrov & Co. (1910) 11 C L R 311, at p 325, 16 A L R 513, at p 517, R v President of Commonwealth Court of Conciliation and Artiration and Merchant Service Guild of Australians Ex parte William Holyman & Sons Lid., (1914) 18 C L R 273, 20 A L R 429, Federated Municipal and Shire Council Employees' Union of Australia v Melbourne Corporation, (1919) 26 C L R 508, at p 545, 25 A L R 309, at p 323, Burlood Cinema Lid v Australian Theatrical and Amusement Employees' Association, (1925) 35 C L R. 528, at p 539, 31 A L R 282, at p 286

See also per Latian, C J in R. Burlood Cinema Lid v Australian Theatrical and Amusement Employees' Association, (1925) 35 C L R. 528, at p 539, 31 A L R 282, at p 286

See also per Latian, C J in R. Per Griffith, C J Whatever the term "taxation" meant in 1900 it must mean "co long as the Constitution exists, so far as regards the nature and extent of the power conferred on the Parliament with respect to it R. v Barger, Commonwealth v McKay, (1908) 6 C L R 41, at p 68, 11 A L R 374, at p 378

Per Isaacs, Gavan Duffy, Powers and Rich, JJ The phrase "industrial disputes extending beyond the limits of any one State" is to be construed according to the natural and ordinary meaning of the words as understood at the time of the passing of the Constitution Act R v Commonwealth Court of Conciliation and Arbitration (President of), and Merchant Service Guild of Australassa, Exparte William Holyman & Sons Lid, (1914) 18 C L R 278, at p 285, 20 A L R 429, at p. 48, to the use of extrapeous facts, existing at the data of enactment of the Constitution in the paters.

p. 434
As to the use of extraneous facts, existing at the date of enactment of the Constitution, in the interpretation of the Constitution, see James v Commonwealth, 1936 A C 578, 55 C L R 1, 42 A L R 333.

Regard to be had to laws modified by Constitution.

Regara to be had to laws modified by Constitution.

Per Griffith, CJ, Barton and O'Connor, JJ The rules that in construing a Statute regard must be had to the existing laws which are modified by it and that in construing a contract regard must be had to the facts and circumstances existing at the date of the contract, are applicable in the construction of such a Constitution as the Commonwealth Constitution which not only is an Act of the Imperial Parliament, but embodies a compact between the six Australian Golomes Federated Amalgamated Government Railway and Tramway Service Association v New South Wales Railway Traffic Employees Association (1906) 4 CLR 488, at p 534, 13 ALR 273, at p 279

Words to be given their plain and natural meaning

Per Knox, C.J. and Gavan Duffy, J. The rule (e. of construction) is that words used by the Legislature should be given their plain and natural meaning unless it is manifest from the general scope and intention of the Statute that injustice and absurdity would result from so construing them. Australiastant Temperance and General Mutual Infe Assurance Society Ltd v. Howe, (1922) 31 C.L.R. 290, at p. 294, 29 A.L.R. 46, at p. 48

Regard to be had to substance rather than to form

Held by the High Court that in determining whether a particular law is or is not within the power of the Commonwealth Parliament to enact, regard must be had to its substance rather than to its literal form Petersvald v. Bartley, (1904) 1 C L R 497, at p 511; 10 A L R (C N) 65, at p 66, R v Barger: Commonwealth v McKay, (1908) 6 C L R 41, 14 A L R 374

Indirect effect and motive of Act irrelevant

Held by the High Court that the circumstance that an indirect effect may be produced by the exercise of an admitted power of legislation is irrelevant to the question whether the legislature is competent to prescribe the same effect by direct law. So are the motive which actuated the legislature and the ultimate end desired to be attained. R v Barger, Commonwealth v. McKay, ((1908) 6 C LR 41, 14 A L B 374 See also Okborne v. Commonwealth, (1911) 12 C L R 321, at pp 334-5, 343-6, 358, 360-2, 374, 17 A.L.R 242, at pp. 245, 248-9, 253-4, 255, 260

Reference to draft Constitution Bills

Held by the High Court that as matter of history of legislation the draft Constitution Bills which were prepared under the authority of the Parliaments of the several States may be referred to Tasmania v Commonwealth and Victoria, (1904) 1 C L R 329, at p. 333.

Reference to Convention or Parliamentary debates

Held by the Full Court of the Supreme Court of Victoria that reference to the Convention debates cannot be permitted Stephens v Abrahams (No 2) (1903) 29 V L R. 229, at pp 239, 241, 247 9 A L R 89, at p 92; 24 A.L T 216, at p. 219.

Held similarly by the High Court, Municipal Council of Sydney v Commonwealth (1904) 1 C.L.R 208, at p. 213; Tasmania v. Commonwealth and Victoria, (1904) 1 C L R 329, at p. 333

Remarks of Lord Haldane (when a member of the House of Commons) upon the motion for leave to introduce the Commonwealth Constitution Bill into that House, cited by the High Court Amalgamated Society of Engineers v Adelaude Steamship Company Ltd (1920) 28 C L.R 129, at p. 147, 26 A L R 337, at p. 341.

Maxims applicable in interpretation of Constitution.

Held by the High Court that the maxims expression facil cessure tactum and expression units est exclusion alterius are applicable to the Constitution in a greater, rather than in a lesser, degree than in the construction of ordinary contracts or ordinary Statutes. Federated Amalgamated Government Railway and Transcay Service Association v. New South Wales Railway Truffic Employees Association, (1906) 4 C L R. 488, at p. 534; 13 A.L.R. 273, at p. 279. See also Australian Boot T: 2 Employees Federation v. Whybrow & Co. (1910) 10 C L.R. 266, at pp. 291, 293; 16 A L R. 185, at pp. 193-4, Le Mesurier v Connor, (1929) 42 C L.R. 481, at p. 512, 36 A L.R. 41, at p. 52, 1 A B C. 97, at p. 128.

Distribution by Constitution of Legislative, Executive and Judicial Powers.

Effect of the distribution of powers between the Legislature, the Executive, and the Judiciary discussed by the High Court New South Wales v Commonwealth, (1915) 20 CLR 54, at pp 88-90, 108; 21 A.LR 128, at pp 143-4, 151, In re Judiciary and Navigation Acts, (1921) 29 CLR. 257, at p 264; 27 ALR 128, at p 194, Victorian Steredoring and General Contracting Co Pty Ltd and Meales v. Dignam, (1931) 46 CLR. 73, at pp. 84, 86, 89-102, 38 ALR 22, at pp. 24, 26, 27-32 See also cases on the judicial power, (s 71, note (b), supra, pp 59-60), and cases on the power of the Legislature to delegate (Supplementary Notes, infra, p 113)

Extra-Territorial Operation of Commonwealth Acts

Extra-Territorial Operation of Commonwealth Acts

Question of the extra-territorial operation of Commonwealth Acts discussed by High Court.

Robtelmes v. Beenan, (1906) 4 C L R 395 at pp 404, '411-3, 242-1, 13 A L R 168, at pp 171, 173-4, 177; Merchant Service Guild of Australasia v. Commonwealth Steamship Owners' Association, (1913) 16 C L R 664, at pp 676-8, 690, 701-2, 19 A L R 450, at pp 455-6, 460, 464, Amalgamated Society of Engineers v Adelarde Steamship Co. Ltd v, (1920) 28 C L R 129, at p 175, 26 A L R 337, at p. 352; Merchant Service Guild of Australasia v Commonwealth Steamship Owners' Association (No 3), (1920) 28 C L R 495, at p 502, 27 A L R 213, at p 215; Trustees Executors and Agency Co. Ltd v Tederal Commissioner of Tuxation, (1933) 49 C L R 220, at pp 230 et seq, 39 A L R 367, at pp 369 et seq; R. v Burgess. Exparte Henry, (judgment delivered 10th November, 1936)

Attorney-General, Applications by, for Declarations of Invalidity of Acts.

Astoney-General, Applications by, for Declarations of Invalidity of Acts.

As to the light of the Attorney-General of the Commonwealth to maintain an action against a State for a delcaration of the invalidity of an Act of the State, or the right of the Attorney-General of a State to maintain an action against the Commonwealth or another State for a declaration of the invalidity of an Act of the Commonwealth or of that other State, see Attorney-General for New South Wules v. Brewery Employees' Union of New South Wales, (1908) 6 C. L.R. 469, at pp. 498-500, 519, 520, 548-53, 557-8, 597-8, 14 A. L.R. 565, at pp. 570-1. 578, 589-91, 592-3, 607-8; Commonwealth v. Queensland, (1920) 9 C. L.R., 1 at pp. 7, 11-13, 23, 27 A. L.R. 73, at pp. 75, 77-8, 82, Tasmanna v. Victoria, (1985) 52 C. L.R. 157, at pp. 168, 171, 178, 186-8, 41 A. L.R. 157, at pp. 159, 160, 163, 167, Attorney-General for Victoria v. Commonwealth, (1935) 52 C. L.R. 533, at pp. 556, 560-1, 564, 41 A. L.R. 246, at pp. 250, 251-2, 253

Tests of validity of Acts

Per Isaacs, J It is impossible to regard the mere written words of the Constitution as affording the only test of validity. The written words have to take into account the circumstances of the moment and the extent of constitutional development. The doctrine of responsible government, for instance, is invisibly but none the less inextricably and powerfully interwoven with the texture of the written word, and any interpretation of the document which disregarded the implication of that doctrine would be false and misleading. Commonwealth v. Colonial Combing, Spinning and Weaving Co. Ltd., (1922) 31 C L.R. 421, at p. 446, 29 A L R. 138, at p. 146

Onus on person asserting validity of Commonwealth Acis

Onus on person asserting validity of Commonwealth Acts

As to the burden imposed upon those who affirm the capacity of the Commonwealth to pass an Act
which prior to Federation could have been passed by the States (then Colonics) or an Act the validity of
which is challenged, see Federated Amalgamatical Government Railway and Tramway Service Association
v. New South Wales Railway Traffic Employees' Association, (1906) 4 C L R 488, at p. 547, 13 A L.R. 278,
at p. 284. Attorney-General for the Commonwealth v Colonial Sugar Refining Co Ltd, 1914 A C. 237, at
p. 255 17 C.L R 644, at p 653, 20 A L R 22, at p 27, Federated Engine-drivers' and Firemen's Association of Australiasa v. Colonial Sugar Refining Co Ltd, (1916) 22 C L.R. 103 at p 108; 22 A.L R. 328, at
p. 329; Amalgamated Society of Engineers v Adelande Steamship Co Ltd (1920) 28 C L R 129, at p 154;
26 A.L R 337, at p 344, Ex parte Walsh und Johnson · In re l'ates, (1925) 37 C L R 36, at p 58; 32
A.L.R. 46, at p 50

Test of Severability

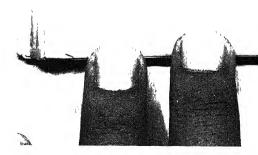
Test of Severability

As to the test to be applied in determining whether the invalid portion of an Act is severable from the rest of the Act, see Federated Amalgamated Government Railway and Tramway Service Association v. New South Wales Railway Traffic Employees' Association, (1906) 4 C. L. R. 488, 13 A. L. R. 273, R. v. Barger, Commonwealth v. McKay, (1908) 6 C. L. R. 41; 14 A. L. R. 374, Attorney-General for New South Wales V. Breverp Employees' Union of New South Wales, (1908) 6 C. L. R. 469, at pp. 1518, 530, 545-8, 14 A. L. R. 565, at pp. 578, 582, 587-9, R. v. Commonwealth Court of Concultation and Arbitration. Exparte Whybrow & Co., (1910) 11 C. L. R. 11, 16 A. L. R. 378, Australian Boot Trade Employees' Federation v. Whybrow & Co., (1910) 11 C. L. R. 311, 16 A. L. R. 513, Owners of SS. Kalibia v. Wilson, (1910) 11 C. R. 889; 17 A. L. R. 410; Osborne v. Commonwealth, (1911) 12 C. L. R. 321, 17 A. L. R. 22 Attorney-General of the Commonwealth v. Colonnal Sugua Reference of St. Kalibia v. Wilson, (1910) 11 C. L. R. 689; 17 A. L. R. 122, at pp. 27-8, New South Wales v. Commonwealth, (1915) 20 C. L. R. 544, at pp. 65, 83, 110; 21 A. L. R. 128, at pp. 134, 141, 152, Waterside Workers' Federation of Australia v. J. W. Alexander Ltd., (1918) 25 C. L. R. 434; 24 A. L. R. 341, W. & A. McA-thur Ltd. v. State of Queensland, (1920) 28 C. L. R. 530, at p. 559; 27 A. L. R. 130, at p. 141, British Imperial Oil Co. Ltd. v. Federal Commissioner of Tazation, (1925) 35 C. L. R. 422; 31 A. L. R. 129, Federal Oil Co. Ltd. v. Federal Commissioner of Tazation, (1925) 35 C. L. R. 422; 31 A. L. R. 129, Federal Commissioner of Tazation, (1925) 36 C. L. R. 410, at pp. 417, 418-9, 422; 31 A. L. R. 322, at pp. 324, 325, 326; Roughley v. New South Wales v. Exparte Beaux, (1928) 42 C. L. R. 162, at pp. 186-191 206-9; 35 A. L. R. 1, at pp. 8-10, 16-7; Vacuum Oil Co. Pty. Ltd. v. Queencland (No. 2), (1935) 51 C. L. R. 677, at pp. 68-8, 41 A. L. R. 114, at p. 116.

As to the extent to which the question of severability is affected by l

Application of provisions of Constitution to Commonwealth and States.

Held by the Privy Council that the Constitution, when enacting a section applying only to the Commonwealth or the States exclusively, indicates that intention in clear terms. James v. Commonwealth, 1936 A.C. 578, 55 C L R. 1; 42 A.L R 333.



Power of the Legislature to Delegate

Held by the High Court that s 52 paragraph (q) of the Customs Act 1901—which provides that all goods the importation of which shall be prolinited by proclaimation shall be prolinited imports—is not a delegation of legislative power but conditional legislation, and is within the power conferred on Parliament by s 51, sub-sections (i) and (ii) of the Constitution Baxter v Ah Way, (1909) 8 C L R 626, 15 A L R 603

As to the power of the Parliament to confer on the Governor-General-in-Council power by proclaimation to specify acts or transactions which are to be deemed trading with the enemy, see Welsbach Light Co of Australasia Lid v Commonwealth, (1916) 22 C L R 268 22 A L R 398

As to the power of the Parliament to confer on the Governor-General-in-Council power to make regulations to give effect to the Treaty of Versailles, see Roche v Krenheimer, (1921) 29 C L R 329, 27 A L R, 254

As to the power of the Parliament to confer on the Minister for Custom Fundament, (1921) 29 C L R 329, 27 As to the power of the Parliament to confer on the Minister for Custom Fundament, (1921) 29 C L R 329, 27

As to the power of the Parliament to confer on the Minister for Customs power to specify the goods to which a section of the Customs Tariff (Industries Preservation) Act 1921-1922 shall apply, see Nott Bros. & Co Lid v Barkley, (1925) 36 C L R 20 31 A L R 256
As to the power of the Parliament of the Commonwealth to delegate its functions under s 51 (i) to any Board or person, and in particular to a State Board, see James v Commonwealth, (1928) 11 C L R 442,

any Board or person, and in particular to a State Board, see James v. Commonwealth, (1928) 11 C L R. 442, at pp. 458-60.

As to the power of the Pailiament to confer on the Governor-General in-Council power to make regulations (not inconsistent with the Transport Workers Act 1928-1929), which, notwithstanding anything in any other Act, but subject to the Act, Interpretation Act 1901-1918 and the Acts Interpretation Act 1904-1918, shall have the force of liw, with respect to the employment of transport workers, see Huddart Parker Limited v. Commonwealth, (1931) 44 C L. R. 492, 37 Å L. R. 22, Victorian Steredoring and General Contracting Co. Pty. Lid. and Meakes v. Diagnam, (1931) 46 C L. R. 73, 38 Å L. R. 22

Held by the High Count that s. 13 of the Dried Fruit Expoit Control Act 1924-1935—which provides that for the purpose of enabling the Board effectively to control the export and the sale and distribution after export of Australian dried fruits the Governor-General may by proclamation prohibit the 'export from the Commonwealth of any dried fruits except in accordance with a heence issued by the Munster subject to such conditions and restrictions as are prescribed after recommendation to the Minister by the Board—contains no improper delegation of the legislative powers of the Commonwealth. Crowe v. Commonwealth (1985) 54 C L. R. 69, 41 A L. R. 445.

Power of Commonwealth to was criminal laws.

Power of Commonwealth to pass criminal laws.

Power of Commonwealth to pass criminal laws.

Held by the Full Court of the Supreme Court of Victoria that the general power of the Federal Parliament includes a right to make laws with a criminal sunction for the protection of the property of the Commonwealth even though that property might be more or less effectively protected by State law. R v Dolan, R v. Schifmann, 1919 V.L. R 55, 24 A L R 442 * 40 A L 7 126

Held by the High Court that it is within the constitutional powers of the Commonwealth to penalize all inctements to commit contraventions of any law of the Commonwealth validly enacted Grazers' Association of New South Wales v. Labor Daily Lid, (1930) 44 C L R 1

Per Rich, J * The Parliament of the Commonwealth has power to problint Associations which by their constitutions or propaganda advocate or encourage the overthrow of the Constitution of the Commonwealth by revolution or of the established government of the Commonwealth by force or violence R v. Hush * Ex parte Devanny, (1932) 48 C L.R 487 at p 506.

Power of Commonwealth to pass ex post facto laws.

As to the power of the Parlament to validate the collection of customs duties retrospectively, see Colomal Sugar Refining Co Ltd v Irrung, 1903 St R Qd 261, 1906 A C 360, at p 366
As to whether the Parlament has power to make unlawful an act which was lawful at the time when it was done, see Donolove v. Britz (1904) I C L R 391, at p 402, 10 A L R. (C N) 49, at p 49
At to whether a regulation can have a retrospective effect with respect to a liability which had accrued before it was made, see Sendall v. Federal Commissioner of Lant Tax. (1911 L C L R 653, at p 665.

Question of the power of the Commissioner of Lant Tax. (1911 L C L R 653, at p 665.

Question of the power of the Commissioner of Lant Tax. (1912 L C L R 624, at p 645, at p 665.

Question of the power of the Commissioner of Lant Tax. (1912 20 C L R 425, 21 A L R 405; Ex x parte Watsh and Johnson In re Yates, (1925) 37 C L R 36, at pp 86, 90, 99, 137-8, 32 A L R 46, at pp 60-1, 62, 66, 80 60-1, 62, 66, 80

Common law of the Commonwealth

As to whether there is a common law of the Commonwealth, see Chanter v Blackwood, (1904) 1 C L R 39, at pp 57-9, 64, 76-7 Attorney-General for the Commonwealth v Colonial Sugar Refining Co Ltd, 1914 A C 237, at pp 256-7, 17 C L R 644, at p 655 20 A L R 22 at p 27, R v Kidman, (1915) 20 C.L R 425, at pp 435-7, 444-7 454, 21 A L R 405, at pp 407-8, 411-2, 415

CONSTITUTION ALTERATION (SENATE ELECTIONS).

No. 1 of 1907.

An Act to alter the provisions of the Constitution relating to the Election of Senators.

[Assented to 3rd April, 1907.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Senate Elections) 1906.

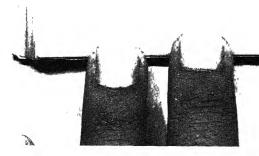
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- 2. Section thirteen of the Constitution is altered—
- (a) by omitting the words "the third year," and inserting in lieu thereof the words "three years";
- (b) by omitting the words "the sixth year," and inserting in lieu thereof the words "six years";
- (c) by omitting the words "in the year at the expiration of which," and inserting in lieu-thereof "within one year before";
- (d) by omitting the word "January" wherever it occurs, and inserting in lieu thereof the word "July"

Extension of terms of service of certain senators.

- 3.—(1.) The terms of service of the senators whose places would, but for this Act, become vacant at the expiration of the year One thousand nine hundred and nine are extended until the thirtieth day of June One thousand nine hundred and ten.
- (2.) The terms of service of the senators whose places would, but for this Act, become vacant at the expiration of the year One thousand nine hundred and twelve are extended until the thirtieth day of June One thousand nine hundred and thirteen.

Beginning of term of service of senators elected in 1906 not altered. 4. This Act shall not be taken to alter the time of beginning of the term of service of any senator elected in the year One thousand nine hundred and six.



CONSTITUTION ALTERATION (STATE DEBTS).

No. 3 of 1910.

An Act to alter the provisions of the Constitution relating to the Public Debts of the States.

[Assented to 6th August, 1910.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as Constitution Alteration (State Debts) short title. 1909.
- 2. Section one hundred and five of the Constitution is altered by Alteration of omitting the words "as existing at the establishment of the 105. Commonwealth."

CONSTITUTION ALTERATION (STATE DEBTS).

No. 1 of 1929.

An Act to alter the Constitution by inserting therein further Provisions relating to the public debts of the States and the borrowing of money by the Commonwealth and the States.

[Assented to 13th February, 1929.]

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

- 1. This Act may be cited as Constitution Alteration (State Debts) 1928.
- 2. The Constitution is altered by inserting after section one hundred and five the following section:—

Agreements with respect to State debts.

- "105A. (a)—(1.) The Commonwealth may make agreements with the States with respect to the public debts of the States, including—
 - (a) the taking over of such debts by the Commonwealth;

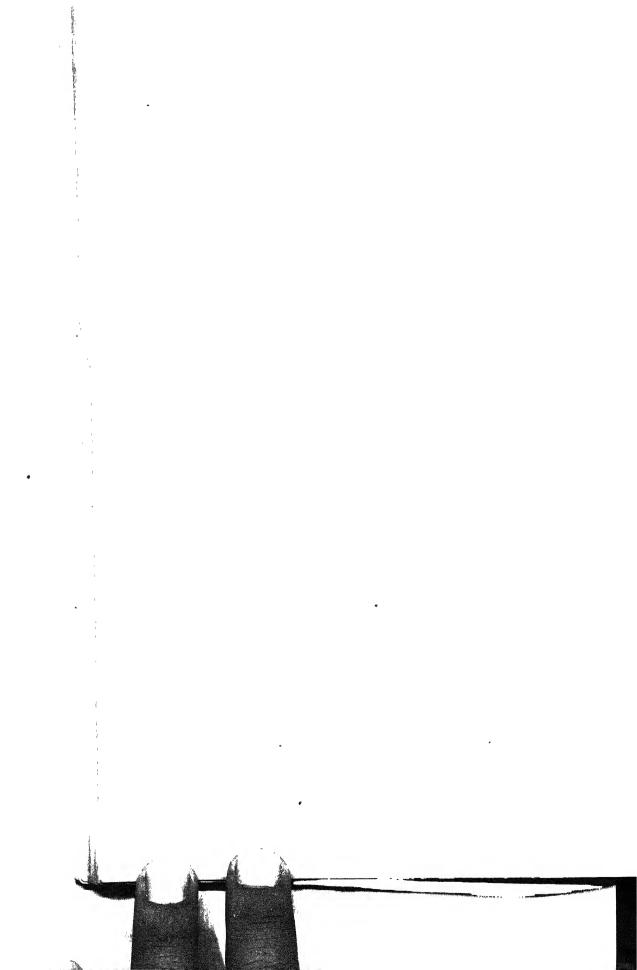
(b) the management of such debts;

- (c) the payment of interest and the provision and management of sinking funds in respect of such debts;
- (d) the consolidation, renewal, conversion, and redemption of such debts:
- (e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
- (f) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.
- "(2.) The Parliament may make laws for validating any such agreement made before the commencement of this section.
- "(3.) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.
- "(4.) Any such agreement may be varied or rescinded by the parties thereto.
- "(5.) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.
- "(6.) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.".

NOTES OF CASES.—(a) For Notes of Cases on this section see supra, p. 94.

APPENDIX A.

THE FEDERAL COUNCIL OF AUSTRALASIA ACT 1885, AND THE LAWS PASSED BY THE FEDERAL COUNCIL AND IN FORCE AT 1st JULY, 1936.



THE FEDERAL COUNCIL OF AUSTRALASIA ACT. 1885.*

48 & 49 Vict., Ch. 60.

An Act to constitute a Federal Council of Australasia.

[14th August, 1885.]

THEREAS it is expedient to constitute a Federal Council of Australasia, for the purpose of dealing with such matters of common Australasian interest, in respect to which united action is desirable, as can be dealt with without unduly interfering with the management of the internal affairs of the several colonies by their respective legislatures:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act, unless the context otherwise require, the following Definitions. terms shall bear the meanings set opposite to them respectively:-

- "Colonies."—The colonies (including their respective dependencies) of Fiji, New Zealand, New South Wales, Queensland, Tasmania, Victoria, and Western Australia, and the province of South Australia, and any other colonies that may hereafter be created in Australasia, or those of the said colonies in respect to which this Act is in operation:
- "Crown Colony."—Any colony in which the control of public officers is retained by Her Majesty's Imperial Government:
- "Her Majesty's possessions in Australasia."—The colonies and such other territories as Her Majesty may from time to time declare by Order in Council to be within the operation of this Act:

"Council."—The Federal Council as hereby constituted:

"Governor."—The Governor, Lieutenant Governor, or other officer administering the government of the colony referred to, with the advice of his executive council, except in the case of a Crown colony, in which case the word shall mean the Governor, Lieutenant Governor, or such other officer alone.

2. There shall be in and for Her Majesty's possessions in Australasia Institution of a Federal Council, constituted as herein-after provided, and called the Federal Council. Federal Council of Australasia, which shall have the functions, powers, and authority herein-after defined.

3. Within such possessions Her Majesty shall have power, by and Power to make laws for the purposes make laws. with the advice and consent of the Council, to make laws for the purposes herein-after specified, subject to the provisions herein contained respecting the operation of this Act.

^{*} NOTE.—This Act was repealed by covering clause 7 of the Constitution, supra, p. 4.

Session of Council,

4. A session of the Council shall be held once at least in every two years.

Constitution of Council.

5. Each colony shall be represented in the Council by two members, except in the case of Crown colonies, which shall be represented by one member each. Her Majesty, at the request of the legislatures of the colonies, may by Order in Council from time to time increase the number of representatives for each colony.

Appointment, &c., of representatives. 6. The legislature of any colony may make such provision as it thinks fit for the appointment of the representatives of that colony, and for determining the tenure of their office.

Place of sitting of Council.

7. The first session of the Council shall be held at Hobart, in the colony of Tasmania. Subsequent sessions shall be held in such colony as the Council shall from time to time determine.

Summoning and prorogation of Council.

8. The Council shall be summoned and prorogued by the Governor of the colony in which the session shall be held; and shall be so summoned and prorogued by proclamation, published in the "Government Gazette" of each of the colonies; and shall meet at such time and at such place as shall be named in the proclamation.

Governors to report names of representatives. 9. The Governor of each colony shall from time to time transmit to the Governors of the other colonies the names of the members appointed to represent the colony of which he is Governor.

Vacancy in representation not to affect acts of Council. 10. Notwithstanding any vacancy in the representation of any colony, the Council shall be competent to proceed to the dispatch of business, and to exercise the authority hereby conferred upon it.

Special sessions of Council.

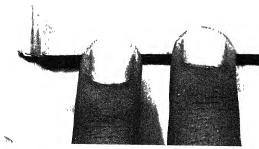
11. At the request of the Governors of any three of the colonies, a special session of the Council shall be summoned to deal with such special matters as may be mentioned in the proclamation convening it. Until the Council shall make other provision in that behalf, any such special session shall be summoned by the Governor of Tasmania, and shall be held at Hobart.

President of Council. 12. The Council shall in each session elect one of its members to be president.

Quorum, and voting.

13. The presence of a majority of the whole number of members of the Council for the time being, representing a majority of the colonies with respect to which this Act is in operation, shall be necessary to constitute a quorum for the dispatch of business, and all questions which shall arise in the Council shall be decided by the votes of a majority of the members present, including the president.

Oath or affirmation to be taken by members. 14. No member of the Council shall sit or vote until he shall have taken and subscribed before the governor of one of the colonies the oath of allegiance contained in the schedule hereto: Provided that every member authorized by the law of the colony which he represents to make an affirmation instead of taking an oath may make such affirmation instead of the oath hereby required to be taken.



15. Saving Her Majesty's prerogative, and subject to the provisions Matters subject to the provisions to legislative herein contained with respect to the operation of this Act, the Council authority of Council. shall have legislative authority in respect to the several matters following:-

- (a.) The relations of Australasia with the islands of the Pacific:
- (b.) Prevention of the influx of criminals:
- (c.) Fisheries in Australasian waters beyond territorial limits:
- (d.) The service of civil process of the courts of any colony within Her Majesty's possessions in Australasia out of the jurisdiction of the colony in which it is issued:

(e.) The enforcement of judgments of courts of law of any colony beyond the limits of the colony:

(f.) The enforcement of criminal process beyond the limits of the colony in which it is issued, and the extradition of offenders (including deserters of wives and children, and deserters from the imperial or colonial naval or military forces):

(g) The custody of offenders on board ships belonging to Her Majesty's Colonial Governments beyond territorial limits:

- (h.) Any matter which at the request of the legislatures of the colonies Her Majesty by Order in Council shall think fit to refer to the Council:
- (i.) Such of the following matters as may be referred to the Council by the legislatures of any two or more colonies, that is to say,—general defences, quarantine, patents of invention and discovery, copyright, bills of exchange and promissory notes, uniformity of weights and measures, recognition in other colonies of any marriage or divorce duly solemnized or decreed in any colony, naturalization of aliens, status of corporations and joint stock companies in other colonies than that in which they have been constituted, and any other matter of general Australasian interest with respect to which the legislatures of the several colonies can legislate within their own limits, and as to which it is deemed desirable that there should be a law of general application: provided that in such cases the Acts of the Council shall extend only to the colonies by whose legislatures the matter shall have been so referred to it, and such other colonies as may afterwards adopt the same.

Every Bill in respect of the matters marked (a), (b), or (c), shall, unless previously approved by Her Majesty through one of Her Principal Secretaries of State, be reserved for the signification of Her Majesty's pleasure.

16. The Governors of any two or more of the colonies may, upon Power to an address of the legislatures of such colonies, refer for the consideration Governors to refer questions and determination of the Council any questions relating to those colonies determination or their relations with one another, and the Council shall thereupon of Council. have authority to consider and determine by Act of Council the matters so referred to it.

Royal assent to Bills passed by Council 17. Every Bill passed by the Council shall be presented, for Her Majesty's assent, to the Governor of the colony in which the Council shall be sitting, who shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in Her Majesty's name, or that he withholds such assent, or that he reserves the Bill for the signification of Her Majesty's pleasure, or that he will be prepared to assent thereto, subject to certain amendments to be specified by him.

Power to Hez Majesty to disallow Act to which Governor has assented in Her Majesty's name. 18. When the Governor assents to a Bill in Her Majesty's name, he shall, by the first convenient opportunity, send an authentic copy of the Act to one of Her Majesty's Principal Secretaries of State, and if Her Majesty, within one year after receipt thereof by the Secretary of State, thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by such Governor by message to the Council, or by proclamation in the "Government Gazette" of all the colonies affected thereby, shall annul the Act from and after the day of such signification.

Bill reserved for significance of Her Majesty's pleasure 19. A Bill reserved for the signification of Her Majesty's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor for Her Majesty's assent such Governor signifies, by message to the Council, or by proclamation published at last aforesaid, that it has received the assent of Her Majesty.

Acts of Council when assented to to have force of law 20. All Acts of the Council, on being assented to in manner herein-before provided, shall have the force of law in all Her Majesty's possessions in Australasia in respect to which this Act is in operation, or in the several colonies to which they shall extend, as the case may be, and on board all British ships, other than Her Majesty's ships of war, whose last port of clearance or port of destination is in any such possession or colony.

Publication of

21. Every Act assented to in the first instance shall be proclaimed in the "Government Gazette" of the colony in which the session of the Council at which it was passed was held, and shall also be transmitted by the Governor assenting thereto to the Governors of the several colonies affected thereby, and shall be proclaimed by them within the respective colonies of which they are Governors.

Acts of Council to supersede Colonial enactments. 22. If in any case the provisions of any Act of the Council shall be repugnant to, or inconsistent with, the law of any colony affected thereby, the former shall prevail, and the latter shall, so far as such repugnance or inconsistency extends, have no operation.

Standing orders for conduct of business.

23. The Council may from time to time make and adopt such standing rules and orders as may be necessary for the conduct of its business, and all such rules and orders shall be binding on the members of the Council.

Committees of Council.

24. The Council may appoint temporary or permanent committees of its members, to perform such duties, whether during the session of the Council or when the Council is not in session, as may be referred to them by the Council.

25. The Council may appoint such officers and servants as may be officers and necessary for the proper conduct of its business, and may direct the servants. payment to them of such remuneration as it may think fit.

26. The necessary expenditure connected with the business of the Mode of Council shall be defrayed in the first instance by the colony wherein detraying expenditure the expenditure is incurred, and shall be ultimately contributed and paid of Council by the several colonies in proportion to their population. The amounts payable by the several colonies shall be assessed and apportioned, in case of difference, by the Governor of the colony of Tasmania.

27. It shall be the duty of the Governor of each colony to direct Payment of the payment by the Colonial Treasurer, or other proper officer of the by colonies. colony, of the amount of the contribution payable by such colony under the provisions of the preceding section.

28. Whenever it shall be necessary to prove the proceedings of the Evidence of Council in any court of justice, or otherwise, a certified copy of such proceedings proceedings, under the hand of the clerk or other officer appointed in that behalf by the Council, shall be conclusive evidence of the proceedings appearing by such copy to have been had or taken.

29. The Council may make such representations or recommendations Power to make to Her Majesty as it may think fit with respect to any matters of general to Her Majesty. Australasian interest, or to the relations of Her Majesty's possessions in Australasia with the possessions of foreign powers.

30. This Act shall not come into operation in respect of any colony commencement until the legislature of such colony shall have passed an Act or Ordinance declaring that the same shall be in force therein, and appointing a day on and from which such operation shall take effect, nor until four colonies at the least shall have passed such Act or Ordinance.

31. This Act shall cease to be in operation in respect to any colony Power to the legislature of which shall have passed an Act or Ordinance declaring operation of that the same shall cease to be in force therein: Provided nevertheless colony. that all Acts of the Council passed while this Act was in operation in such colony shall continue to be in force therein, unless altered or repealed by the Council.

32. This Act shall be styled and may be cited as the Federal Short title. Council of Australasia Act, 1885.

THE SCHEDULE.

, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria and her successors in the Sovereignty of the United Kingdom of Great Britam and Ireland: So help me God.

Note.—The name of the Sovereign of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.

ACTS OF THE FEDERAL COUNCIL OF AUSTRALASIA.*

THE FEDERAL COUNCIL INTERPRETATION ACT 1886.

1886.

ANNO QUADRAGESIMO-NONO VICTORIÆ REGINÆ,

No. 1.

AD. 1885. An Act for shortening the Language used in Acts of the Federal Council of Australasia.

[5 February, 1886.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Federal Council of Australasia, assembled at Hobart, in the Colony of Tasmania, and by the authority of the same, as follows; (that is to say):—

Short title.

1. This Act may for all purposes be cited as "The Federal Council Interpretation Act 1886."

Meanings of certain words.

2. In all Acts of the Federal Council of Australasia the following expressions shall have the meanings hereinafter respectively assigned to them (that is to say)—

48 and 49 Vict. c. 60. "The Federal Council of Australasia Act 1885" shall mean the Act passed by the Parliament of the United Kingdom of Great Britain and Ireland in the Forty-eighth and Forty-ninth years of Her Majesty's Reign, intituled "An Act to constitute a Federal Council of Australasia":

The Federation "The Federation" shall mean and include all Colonies in Australasia forming a portion of the British Empire, whether now existing or hereafter to be created, in respect of which "The Federal Council of Australasia Act 1885" is for the time being in operation:

Federal Council.

Australasian Colony.

- "Federal Council" shall mean the Federal Council of Australasia:
- "Australasian Colony" shall mean and include the Colonies (including their respective dependencies) of Fiji, New South Wales, New Zealand, Queensland, South Australia, Tasmania, Victoria, and Western Australia, and any British Colonies which may be hereafter created within Her Majesty's possessions in Australasia:

In Aus

Act of Federal Council. "Act of the Federal Council" shall mean an enactment of the Federal Council duly assented to by or on behalf of Her Majesty:

*Note.—For list of Acts of the Federal Council which were in force at the establishment of the Commonwealth, but were not in force at the date of the preparation of this volume, and have consequently not been included in this volume, see short titles (in Italics) in the Table at foot of page 4, supra.



"Act of Parliament" used with respect to any Colony shall include any Act of Council and Ordinance of the Legislature of such Act of Parliament,

A D. 1886

"Government Gazette" used with respect to any Colony shall mean the Government Gazette, Royal Gazette, or other official gazette (as the case may be) of such Colony:

"Governor" shall mean the person for the time being administering the government of the Colony with respect to which the term

"Governor in Council" shall mean the Governor acting with the Governor in advice of the Executive Council of the Colony with respect to which the term is used:

"Her Majesty" shall mean and include Her Majesty, her heirs and Her Majesty.

"Justice" shall mean a Justice of the Peace of the Colony with Justice

respect to which the term is used:

"Land" shall include land of any tenure and tenements and Land. hereditaments corporeal or incorporeal, and houses and other buildings, also an undivided share in land:

"Month" shall mean calendar month, unless words are added Month showing a lunar month to be intended:

"Month" shall mean calendar month, unless words are added Month 13 and 14 Vict c 21, showing a lunar month to be intended:

"Oath" and "affidavit" shall include affirmation or declaration Oath, &c in the case of persons by law allowed to affirm or declare instead of swearing, and the word "swear" and other words relating to an oath or swearing shall be construed accordingly:

"Person" shall include corporation, unless there is something Person. repugnant to or inconsistent with that interpretation:

"Property" shall include real and personal property, and any Property. estate or interest in any property real or personal, and any debt, and anything in action, and any other right or interest:

"Supreme Court" shall mean the Court having unlimited jurisdiction Supreme Court in the Colony in question.

Words importing the masculine gender shall be deemed and taken Masculine to to include females, and the singular to include the plural, and the plural feminine, &c the singular, unless the contrary as to gender or number is expressly provided.

3. The time prescribed or allowed in any Act for the doing of a Reckoning of time. particular thing shall in all cases be taken to exclude the day of the act or event from or after which the time is to be reckoned, but shall include the day for the doing of that thing. Provided that where that day falls on a Sunday, or on a Christmas Day, or Good Friday the thing may be done on the day following.

Distance of space mentioned or indicated in an Act shall be computed Reckoning of distance. according to the nearest road ordinarily used in travelling, unless measurement in a direct line is expressed, or that construction is rendered necessary by the context.

4. When by any enactment a power is conferred on any officer or Where s person by the word "may", or by the words "it shall be lawful," or discretionary by the words "it shall or may be lawful" applied to the exercise of that and where not.

A D. 1886

power, such word or words shall be taken to import that the power may be exercised or not at discretion; but where the word "shall" is applied to the exercise of any such power, the construction shall be that the power conferred must be exercised.

Acts to be in sections.

13 and 14
Vict. c. 21,

Mode of citing Acts. 13 and 14 Vict c. 21.

- 5. All Acts of the Federal Council shall be divided into sections if there are more enactments than one, which sections shall be deemed to be substantive enactments without any introductory words.
- 6. When in any Act of the Federal Council any Act of the Parliament of England, or of Great Britain, or of the United Kingdom of Great Britain and Ireland, or any Act of the Federal Council or Act of Parliament of any Australasian Colony is referred to, it shall be sufficient to name the Country, Federation, or Colony by whose Legislature such Act was passed, and to cite the year of the reign in which it was passed, and where there are more statutes or sessions than one in the same year the statute or the session (as the case may require), and where there are more chapters, numbers, or sections than one the chapter, number, or section, or chapter or number and section (as the case may require), without reciting the title of such Act, and the reference shall be made in the case of Acts passed by the respective Parliaments of England, Great Britain, and the United Kingdom of Great Britain and Ireland, according to the copies of statutes printed by the Queen's Printer in London, or by the Government Printer of any of the Australasian Colonies, and in the case of Acts of the Federal Council according to copies of such Acts printed by the Government Printer of any of the Colonies of the Federation, and in the case of Acts of the Parliament of any of the Australasian Colonies according to the copies of such Acts printed by the Government Provided that where it is intended to amend Printer of such Colony. or repeal any portion only of a section of an Act, it shall be necessary either to recite such portion or to set forth the matter or thing intended to be amended or repealed.

Effect of repeal.
13 and 14
Vict. c. 21,
s. 5.
Ib, s. 6.

7. When an Act repealing in the whole or in part any former Act is itself repealed, such last repeal shall not revive the Act or provisions before repealed unless words are added reviving such Act or provisions; and neither the repeal nor the expiration of an enactment shall affect any civil or criminal proceeding or any act, matter, or thing commenced to be done under the repealed or expiring Act, but the same may be continued under the repealed or expiring Act unless the provisions of the repealing Act otherwise indicate. And whenever an Act is made repealing in whole or in part any former Act and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions come into operation by force of the last made Act.

Reference in general terms to persons holding particular office to include successors. 8. Whenever any person holding or occupying a particular office or position is mentioned or referred to in general terms, such mention or reference shall be taken to include all persons who at any time thereafter occupy for the time being such office or position.



9. Whenever power is given to do, perform, or submit to any act, matter, or thing, it shall be taken that such power may be exercised from time to time as occasion may require, unless the nature of the thing or the words used indicate a contrary intention.

A.D 1886. Powers may be exercised from time to time.

10. In every enactment whereby power is given to any officers or Power to persons to make any rules, orders, or regulations, it shall be taken that such officers or persons may revoke, alter, or vary the same from time to be inferred. to time as occasion may require, unless the terms used or the nature from power to make them. and objects of the power indicate that such power is intended to be exercised finally in the first instance.

11. This Act and every other Act to be passed by the Federal Council Acts may be repealed in may be altered amended, or repealed in the same session in which it same session has been made.

In the name and on behalf of Her Majesty the Queen, I assent to this Act.

> GEO. C. STRAHAN, Governor.

FEDERAL COUNCIL OF AUSTRALASIA.

THE FEDERAL COUNCIL EVIDENCE ACT 1886.

1886.

ANNO QUADRAGESIMO-NONO VICTORIÆ REGINÆ,

No. 2.

A.D 1886.

An Act to facilitate the Proof throughout the Federation of Acts of the Federal Council and of Acts of the Parliaments of the Australasian Colonies and of Judicial and Official Documents, and of the Signatures of certain Public Officers.

[5 February, 1886.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Federal Council of Australasia, assembled at Hobart, in the Colony of Tasmania, and by the authority of the same, as follows (that is to say):—

Short title.

1. This Act may for all purposes be cited as "The Federal Council Evidence Act 1886."

Application of Act.

2. This Act relates to all cases in which it may be necessary for the purposes of any Act of the Federal Council to make proof of such things as are in this Act referred to.

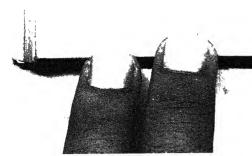
Acts of Federal Council and Acts of Parliament of Parliament of Australasian Colonies to be judicially noticed, and Government Printer's copies to be deemed prima facia correct for certain purposes.

- 3. For the purposes aforesaid all Courts and persons acting judicially within the Federation shall take judicial notice of—
 - All Acts of the Federal Council and all Acts of Parliament of any Australasian Colony:
 - The Colonies forming the Federation, and the extent of their territories.

And any paper purporting to be a copy of any Act of the Federal Council and purporting to be printed by the Government Printer of any Colony of the Federation, and any paper purporting to be a copy of any Act of Parliament of any Australasian Colony and purporting to be printed by the Government Printer of such Colony, shall prima facie be deemed to be a correct copy of the same respectively without any proof being given that such copy was so printed. The date which appears on any such copy purporting to be the day on which such Act received the Royal Assent, shall be received, for all purposes. as evidence of the date of such Assent.

Government Gazette to be evidence.

4. For the purposes aforesaid any paper purporting to be the Government Gazette of any Australasian Colony and purporting to be printed by the Government Printer thereof shall be evidence of the



publication thereof on the day on which the same bears date; and any such paper, if it purports to contain any proclamation, order, regulation, rule, by-law, matter, or thing allowed, confirmed, cancelled, approved of, assented to, or certified shall also in such matters be prima facie evidence of the purport and due making of such proclamation, order, regulation, rule, by-law, matter, or thing.

5. For the purposes aforesaid all copies of the Votes and Proceedings of any House of the Legislature of any Australasian Colony and of Royal proclamations, if purporting to be printed by the Government Printer of the Colony to which they belong or relate, shall, on the mere production by copy. of the same be admitted as evidence thereof throughout the Federation 8 and 9 Vict. 113, s. 3. by all Courts and persons acting judicially without any proof being given that such copies were so printed.

Australasian Colony proved

A D 1886.

6. For the purposes aforesaid all Courts and persons acting judicially certain in any Colony within the Federation shall take judicial notice of the bejudicially signature of every person who is now or hereafter, and of every person noticed. who has at any time been Governor, Judge of the Supreme Court, c 113, s 2. Prothonotary, Registrar, or Chief Clerk of the Supreme Court, Registrar-General, Judge or presiding Magistrate of any County Court or District or Local Court, or Court of Mines, Chairman of any Court of General or Quarter Sessions, Judge of any Court of Bankruptcy or Insolvency, or Police or Stipendiary Magistrate in any of the Australasian Colonies, and of the seal of every such Court, if such signature or seal is attached or appended to any decree, order, certificate, affidavit, or other judicial or official document.

7. The provisions of this Act as to proving documents shall be in Powers under this Act not addition to and not in derogation of any powers of proving documents to be in derogation of existing at common law or given by any law now in force in any Colony existing law. of the Federation.

In the name and on behalf of Her Majesty the Queen, I assent to this Act.

> GEO. C. STRAHAN, Governor.

FEDERAL COUNCIL OF AUSTRALASIA.

THE QUEENSLAND PEARL SHELL AND BECHE-DE-MER FISHERIES (EXTRA-TERRITORIAL) ACT OF 1888.

1888.

ANNO QUINQUAGESIMO-PRIMO VICTORIÆ REGINÆ,

No. 1.

A.D. 1888

An Act to regulate the Pearl Shell and Beche-demer Fisheries in Australasian Waters adjacent to the Colony of Queensland.

[Reserved, 20 January, 1888; Queen's Assent proclaimed in Queensland, 24 August, 1888.]

Preamble

WHEREAS by certain Acts of the Parliament of the Colony of Queensland provision has been made for regulating the Pearl Shell and Beche-de-mer Fisheries in the territorial waters of that Colony: And whereas, by reason of the geographical position of many of the Islands forming portion of that Colony, vessels employed in such Fisheries are, in the prosecution of their business, sometimes within and sometimes beyond the territorial jurisdiction of Queensland:

AND WHEREAS it is expedient that the provisions of the said Acts should extend and apply to such vessels during all the time during which they are so employed, and that for that purpose the provisions of the said Acts, so far as they are applicable to extra-territorial waters, should be extended to such waters by an Act of the Federal Council of Australasia:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Federal Council of Australasia, assembled at Hobart, in the Colony of Tasmania, and by the authority of the same, as follows:—

Short title, and commencement. 1. This Act may be cited as "The Queensland Pearl Shell and Bechede-mer Fisheries (Extra-territorial) Act of 1888," and shall commence and take effect on and from the date of Her Majesty's assent thereto being proclaimed in Queensland.

Interpretation. 45 Vict No 2, (Queensland), a. 1. 2. In this Act the following terms shall, unless the context otherwise indicates, have the meanings set against them respectively; that is to say—

"Australasian waters adjacent to Queensland." "Australasian waters adjacent to Queensland"—All Australasian waters within the limits described in the Schedule to this Act, exclusive of waters within the territorial jurisdiction of the Colony of Queensland;

AD 1888

"Ship"--Any vessel used in navigation or in Fishing, and not being "Ship" a boat as defined by this Act,

"Boat"—Any vessel not exceeding two tons in burden which is "Boat" usually hoisted to a ship's davits, or carried on board of a ship,

or attached to a ship;

"Master" or "Employer"—Any person other than a pilot who is "Master" for the time being in command o in charge of any ship or boat, or who is in charge of any Fishery as hereinafter defined,

"Native Labourer"—Any aboriginal native of Australia or New "Native Labourer" Guinea, or of any of the islands adjacent thereto respectively;

"Polynesian"—Any native of Fiji or New Caledonia or of any of the Loyalty, New Hebrides, Banks', or Solomon groups of Islands, or of any island in the Pacific Ocean not being in Her Majesty's Dominions, nor within the jurisdiction of any civilized

"Pearl Shell and Beche-de-mer Fishery" or "The Fishery"—The "The Fishery." business of diving for, collecting, preparing, storing, or carrying to or from any place within the Colony of Queensland or its dependencies, pearl oysters or pearl oyster shells, or the sea-slug commonly called beche-de-mer, or any other fish or shell of the like kind which the Governor of Queensland in Council may hereafter by Proclamation published in the Queensland

Government Gazette declare to be within the provisions of this

Act.

3. Every ship and boat shall be deemed to be engaged in the Pearl What ships or boats shall be Shell and Beche-de-mer Fishery, if she is used as a depot or place of deemed to be lodging or refuge for persons employed in such Fishery, or for storing the fishery provisions for the use of persons employed in such Fishery, or if she is 45 Vict No. 2, used by any person to dive from, collect, or store pearl oysters, pearl s 2 oyster-shells, or beche-de-mer, or any other fish or shell which may be specified in any such Proclamation as aforesaid, or for carrying or conveying otherwise than as a sea-going vessel under a transire, pearl oysters, pearl oyster-shells, or beche de-mer, or any other fish or shell so specified, to or from any place within the Colony of Queensland or its dependencies.

4. From and after the commencement of this Act it shall not be ships or boats lawful to use or employ any ship or boat within Australasian waters the fishery to be shared adjacent to Queensland in the Pearl Shell and Beche-de-mer Fishery 16., s. 3. unless such ship or boat is duly licensed as required by the Act of the Parliament of the said Colony passed in the forty-fifth year of Her

Majesty's reign, and styled "The Pearl Shell and Beche-de-mer Fishery Act of 1881," as amended by an Act of the Parliament of the said Colony, passed in the fiftieth year of Her Majesty's reign, and styled "The Pearl Shell and Beche-de-mer Fishery Act Amendment Act of 1886," or any other Act in amendment of or substitution for those Acts.

5. If any ship or boat is employed in Australasian waters adjacent Penalty for to Queensland in the Pearl Shell and Beche-de-mer Fishery without ship or boat being duly licensed as required by this Act, the owner and master of such 16,8 6

8-3-64

ship or boat shall each be liable to a penalty not exceeding three times the amount of the license fee payable in respect of such ship or boat. which may be recovered in a summary way before any Police Magistrate or two Justices of the Colony of Queensland, at the suit of any Officer of Customs of the said Colony.

Forfeiture in default of payment.

In default of immediate payment of such penalty, the ship or boat, and all things found on board thereof, shall be seized and kept for a period of sixty days, and if at the expiration of that period the penalty is still unpaid, then the ship or boat, together with all her tackle, apparel. furniture, and cargo, shall be forfeited to Her Majesty.

Unlicensed ship or boat may be seized. 45 Vict No. 2, (Queensland),

6. It shall be lawful for any Police Magistrate or Officer of Customs or Police of the said Colony to seize and take any ship or boat which is found employed in the Fishery in Australasian waters adjacent to Queensland without being licensed as required by this Act, and to take any ship or boat so seized, or any ship or boat seized and taken under the provisions of the said recited Acts, to any port of Queensland, and to detain the same until a prosecution for breach of this Act or the said recited Acts is heard and determined.

License number to be painted on the bow in addition to the name. Tb., s. 8.

7. Every ship or boat engaged in the Fishery in Australasian waters adjacent to Queensland shall keep her name, and the number of her license, prefixed by the letters No., painted in letters and figures of not less than three inches in length in the case of boats, and of not less than six inches in length in the case of ships, in white upon a black ground, or black upon a white ground, on each side of her bow above the waterline during the whole time her license remains in force.

If any ship or boat is found engaged in the Fishery in Australasian waters adjacent to Queensland without her name and the number of her license painted as herein prescribed, the master or owner thereof shall be liable to a penalty not exceeding Five Pounds.

Master refusing to produce license. Ib., s. 9

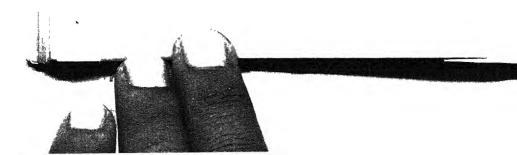
8. If the master of any licensed ship or boat refuses to produce the license of such ship or boat when required so to do by any Police Magistrate or Officer of Customs or Police of the said Colony, he shall for every such offence be liable to a penalty not exceeding Five Pounds.

Licenses of persons in charge of ships and divers. Penalty. 50 Vict. No. 2, (Queensland), s. 6.

9. Every person in charge of a ship engaged in the Fishery in Australasian waters adjacent to Queensland who is not required to hold a certificate of competency under the laws of that Colony, must hold a license permitting him to be so employed; and if any such person is found in charge of a ship so engaged without being so licensed, he shall be liable to a penalty not exceeding Ten Pounds.

Licenses to be shown to officers. Penalty. Ib., s. 7.

10. Every such person in charge of a ship engaged in the Fishery in Australasian waters adjacent to Queensland who fails to show his license when called upon to do so by any Police Magistrate or Officer of Customs or Police of the said Colony, shall be liable to a penalty not exceeding Five Pounds.



11

11. It shall not be lawful for any master or other person to employ any seaman or other person in the Fishery in Australasian waters adjacent to Queensland, unless under a written agreement recorded in some Custom House or shipping office of the said Colony, or to discharge any such seaman or other person except in the presence of an Officer of Customs or Shipping Master of the said Colony.

Seamen, &c.

If any master or other person in Australasian waters adjacent to Penalty. Queenslard employs any seaman or other person in the Fishery, or 50 Vict. No. 2, (Queensland), discharges any seaman or other person so employed, contrary to the s 5. provisions of this Act, or fails to produce the agreement when required so to do by a Police Magistrate or Officer of Customs or Police of the said Colony, he shall be liable to a penalty not exceeding Ten Pounds.

12. No native labourer shall be employed or carried on board of any Native ship or boat engaged in the Fishery in Australasian waters adjacent to Queensland, unless he is carried on ship's articles in like manner as a seaman, and has been engaged to serve in accordance with the provisions articles of the Act of the Parliament of Queensland passed in the forty-eighth (Queensland), year of Her Majesty's reign, and styled "The Native Labourers' Protection Act of 1884."

13. If any ship or boat engaged in the Fishery carries in Australasian Penaltics waters adjacent to Queensland any native labourer with respect to whom 16,8 6 the provisions of the said last-mentioned Act have not been observed, the master and owner shall be jointly and severally liable to a penalty not exceeding One hundred Pounds.

14. Every native labourer employed on board of, or in connexion Native with, a ship or boat engaged in the Fishery in Australasian waters adjacent discharged and to Queensland, whether he was engaged before or is engaged after the shipping master. commencement of this Act, shall be discharged and receive his wages in the presence of a shipping master of the said Colony.

If the master or owner of any such ship or boat, or any other person, Penalty. in Australasian waters adjacent to Queensland, discharges a native labourer who has been employed on board of any such ship or boat, or pays his wages, otherwise than as is herein provided, he shall be liable to a penalty not exceeding Twenty Pounds.

15. All deaths and desertions of Polynesians or native labourers Deaths and employed in the Fishery which occur in Australasian waters adjacent desertions to be reported. to Queensland shall be forthwith reported by the master or employer 45 Vict. No. 2, of such Polynesians or native labourers to the principal Officer of Customs s. 13. of the said Colony at the port nearest to the place where such deaths or desertions have occurred; and if any master or employer fails to make any such report as aforesaid, he shall be liable to a penalty not exceeding Ten Pounds nor less than Five Pounds.

16. All offences against the provisions of this Act may be heard Jurisdiction of Justices. and determined by any Police Magistrate or two Justices of the Colony Compare of Queensland, in accordance with the Laws of that Colony regulating (Queensland),

summary proceedings before Justices, and any such Police Magistrate or Justices shall for that purpose have power to hear and determine the matter at any place within the said Colony where the offender may be, or where any ship or boat with respect to which or in connexion with which the offence was committed is found, or at any place in the said Colony appointed for holding Courts of Petty Sessions, and to make such orders for the safe keeping, detention, seizure, forfeiture, or sale of any such ship or boat, and all things found therein, as such Police Magistrate or Justices may think fit.

Appeal.
45 Vict No. 2,
(Queensland),
s. 15.

17. If any person thinks himself aggrieved by any determination or adjudication of any Police Magistrate or Justices with respect to any penalty or forfeiture under the provisions of this Act, he may appeal to the Supreme Court of Queensland or to a District Court of the said Colony in accordance with the Laws of that Colony regulating appeals from Justices.

Onus of proof. 48 Vict. No. 20, (Queensland), 8. 11. 18. In any proceeding under this Act, the averment in the information that any person named therein is a Polynesian or a native labourer shall be sufficient proof of the fact until the contrary is shown.

Limitation of

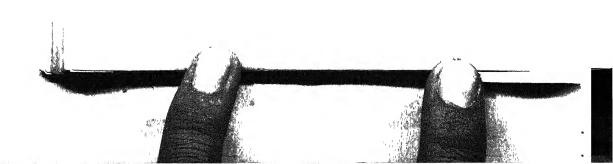
19. This Act applies only to British ships, and boats attached to British ships.

THE SCHEDULE.

Letters Patent, 10th October, 1878. 43 Vict. No. 1, (Queensland). All waters included within a line drawn from Sandy Cape northward to the southeastern limit of the Great Barrier Reefs, thence following the line of the Great Barrier Reefs to their north-eastern extremity near the latitude of nine and a half degrees south, thence in a north-westerly direction, embracing East Anchor and Bramble Cays, thence from Bramble Cays in a line west by south (south seventy-nine degrees west) true, embracing Warrior Reef, Saibai and Tuan Islands, thence diverging in a north-westerly direction so as to embrace the group known as the Talbot Islands, thence to and embracing the Deliverance Islands, and onwards in a west by south direction (true) to the meridian of one hundred and thirty-eight degrees of east longitude, and thence by that meridian southerly to the shore of Queensland.

In accordance with Act 48 and 49 Vict., Cap. 60, Section 15, I reserve this Bill for the si nification of Her Majesty's pleasure.

R. G. C. HAMILTON, Governor.



FEDERAL COUNCIL OF AUSTRALASTA.

THE WESTERN AUSTRALIAN PEARL SHELL BECHE-DE-MER FISHERIES (EXTRA-TERRITORIAL) ACT OF 1889.

1889.

ANNO QUINQUAGESIMO-SECUNDO VICTORIÆ REGINÆ.

No. 1.

An Act to regulate the Pearl Shell and Beche-de- AD. 1889. mer Fisheries in Australasian Waters adjacent to the Colony of Western Australia.

[Reserved, 4 February, 1889; Queen's Assent proclaimed in Tasmania, 18th January, 1890.]

HEREAS by certain Acts of the Legislative Council of Western Preamble. Australia provision has been made for regulating the Pearl Shell Fishery in the territorial waters of that Colony: And whereas vessels employed in such Fishery are, in the prosecution of their business, sometimes within and sometimes beyond the territorial jurisdiction of Western Australia: And whereas it is expedient that the provisions of the said Acts should extend and apply to such vessels during all the time during which they are so employed, and that for that purpose the provisions of the said Acts, so far as they are applicable to extraterritorial waters, should be extended to such waters by an Act of the Federal Council of Australasia: And whereas it is desirable that the provisions of the said Acts should apply to persons and vessels engaged in the Beche-de-mer Fishery in like manner as to the Pearl Shell Fishery:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Federal Council of Australasia, assembled at Hobart, in the Colony of Tasmania, and by the authority of the same, as follows:—

1. This Act may be cited as "The Western Australian Pearl Shell short title and Beche-de-mer Fisheries (Extra-Territorial) Act of 1889," and shall commencement. take effect on and from the date of Her Majesty's assent thereto being proclaimed in Western Australia.*

2. This Act applies only to British ships, and boats attached to British Limitation of ships.

^{*} Note.—Her Majesty's assent to this Act was proclaimed in Western Australia by Proclamation dated 12th February, 1890, and published in the Gazette on 20th February, 1890 See Gazette, No. 9, 20th February, 1890, pp. 139–140

A.D. 1889

Interpretation
"Australasian

- 3. In this Act the following terms shall, unless the context otherwise indicates, have the meanings set against them respectively; that is to say—
 - "Australasian Waters adjacent to Western Australia"—All Australasian waters within the limits described in the Schedule to this Act, exclusive of waters within the territorial jurisdiction of the Colony of Western Australia:

"Ship"—Any and every sort of vessel or craft of any sort or size, and whether propelled by oars only or not, and whether having a fixed mast or not, other than boats as defined by this Act:

- "Boat"—Any vessel not exceeding two tons in burthen which is usually hoisted to a ship's davits, or carried on board of a ship, or attached to a ship:
- "Master"—Any person other than a pilot who is for the time being in command or in charge of any ship or boat, or who is in charge of any fishery as hereinafter defined:
- "Transire"—A warrant from the Customs to let goods pass:
- "Licensing Officer"—Any person appointed by the Governor of Western Australia to be a Licensing Officer:
- "Labourer"—Any person coming within the definition of a labourer within the meaning of the Act passed by the Legislative Council of Western Australia, and called and known as "The Imported Labor Registry Act, 1884:"
- "Pearl Shell and Beche-de-mer Fishery" or "the Fishery"—The business of diving for, collecting, preparing, storing, or carrying to or from any place within the Colony of Western Australia or its dependencies, pearl oysters or pearl oyster shells, or the sea-slug commonly called beche-de-mer, or any other fish or shell of the like kind which the Governor of Western Australia in Council may hereafter, by Proclamation in the Government Gazette of Western Australia, d clare to be within the provisions of this Act:
- "The Pearl Shell Fishery Acts" shall mean and include the following
 Acts passed by the Legislative Council of the Colony of Western
 Australia, namely:—

The Pearl Shell Fishery Regulation Act, 1873.

The Pearl Shell Fishery Regulation Act, 1875. The Pearl Shell Fishery Regulation Act, 1883.

The Pearl Shell Fishery Act, 1886.

The Aborigines Protection Act, 1886, Sections Twenty-nine and Thirty.

The Pearl Shell Fishery Regulation Acts Amendment Act, 1887.

and also any Acts amending any of the same.

Whenever in this Act the expression "The Pearl Shell Fishery Acts" is used, it shall be deemed to be used in respect of any provision or provisions in any one or more of the Pearl Shell Fishery Acts contained, applicable to the matter in respect of which it is used.

"Ship."

Waters.'

" Boat "

" Master "

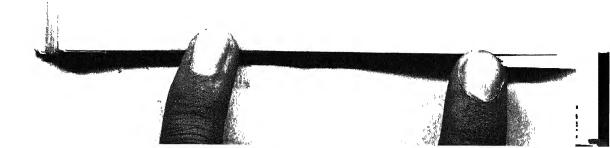
"Transire"

"Licensing Officer."

" Labourer."

"The Fishery."

Pearl Shell Fishery Acts.



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And all the provisions of the said Acts shall within Australasian waters adjacent to Western Australia also extend and apply, so far as is possible, to the Fishery for the sea-slug, commonly called Beche-de-mer, or any other fish or shell which the Governor of Western Australia may hereafter. by Proclamation published in the Government Gazette of Western Australia, declare to be within the provisions of this Act.

4. Every ship and boat shall be deemed to be engaged in the Fishery, What ships if she is used as a depot or place of lodging or refuge for persons employed shall be in the Fishery, or for storing provisions for the use of persons employed in the Fishery, or if she is used by any person to dive from, collect, or store pearl oysters, pearl oyster-shells, or beche-de-mer, or any other fish or shell which may be specified in any such Proclamation as aforesaid, or for carrying or conveying, otherwise than as a sea-going vessel under a transire, pearl oysters, pearl oyster-shells, or beche-de-mer, or any other fish or shell so specified, to or from any place within the Colony of Western Australia and its dependencies

deemed to be employed in

5. From and after the commencement of this Act it shall not be lawful ships or to use or employ any ship or boat within Australasian waters adjacent to Western Australia in the Fishery, unless such ship or boat is duly be licensed licensed as required by the Pearl Shell Fishery Acts. The owner, master, or other person in charge of any ship or boat who within Australasian waters adjacent to Western Australia does or omits to do any act which, if it were done or omitted to be done within territorial waters would be an offence against the provisions of the said Acts, as hereinbefore extended, shall be liable to the like penalties as are imposed by the said Acts in respect of the same act or omission when done or made within territorial waters and such ship or boat may be dealt with in the same manner as if such offence had been committed within territorial waters. Provided always, that any ship or boat licensed under the provisions of the Act of the Legislative Council of the said Colony, passed in the fiftieth year of Her Majesty's reign, and styled "The Sharks Bay Pearl Shell Fishery Act, 1886," or any Act amending the same, shall, while employed within the limits defined by the said Act, be deemed to be duly licensed for the purposes of this Act.

6. It shall be lawful for any Police Magistrate or Officer of Customs Unlicensed or Police of the said Colony to seize and take any ship or boat which is ship or boat may be seized. found employed in the Fishery in Australasian waters adjacent to Western Australia without being licensed as required by this Act, and to take any ship or boat so seized, or any ship or boat seized and taken under the provisions of the Pearl Shell Fishery Acts, to any port of Western Australia, and to detain the same until a prosecution for breach of this Act or of the Pearl Shell Fishery Acts is heard and determined.

7. Every licensed ship engaged in the Fishery in Australasian waters Licensed ship adjacent to Western Australia shall have painted thereon the figures determined on by the Licensing Officer as being the characteristic figures figures. of such ship, and also the initial letter of the port where the licence is

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obtained, in the manner prescribed by the Pearl Shell Fishery Acts, and the master, owner, or other person before using or employing such ship in the Fishery shall paint such figures and such initial letter on the said ship in the manner prescribed by the said Acts, and shall, so long as the said ship continues to be used or employed in the Fishery, maintain such figures and letter in a clear and legible manner, and in default of so doing shall be liable to the like penalties as are imposed by the said Acts for a like default committed within territorial waters.

Master refusing to produce licence 8. If the master of any licensed ship or boat refuses to produce the licence of such ship or boat when required so to do by any Police Magistrate or Officer of Customs or Police of the said Colony, he shall for every such offence be liable to a penalty not exceeding Five Pounds

Licences of persons in charge of ships. 9. Every person in charge of a ship engaged in the Fishery in Australasian waters adjacent to Western Australia who is not required to hold a certificate of competency under the laws of that Colony, must hold a licence permitting him to be so employed; and if any such person is found in charge of a ship so engaged without being so licensed, he shall be liable to a penalty not exceeding Ten Pounds.

Licences to be shown to officers. 10 Every such person in charge of a ship engaged in the Fishery in Australasian waters adjacent to Western Australia who fails to show his licence when called upon to do so by any Police Magistrate or Officer of Customs or Police of the said Colony, shall be liable to a penalty not exceeding Five Pounds.

Seamen, &c to be employed only under a written agreement. 11. It shall not be lawful for any master or other person to employ any seaman or other person in the Fishery in Australasian waters adjacent to Western Australia, unless under a written agreement recorded in some Custom House of the said Colony, or to discharge any such seaman or other person, except in the presence of an Officer of Customs of the said Colony.

If any master or other person in Australasian waters adjacent to Western Australia employs any seaman or other person in the Fishery, or discharges any seaman or other person so employed, contrary to the provisions of this Act, or fails to produce such written agreement when required so to do by a Police Magistrate or Officer of Customs or Police of the said Colony, he shall be liable to a penalty not exceeding Ten Pounds.

Jurisdiction of Justices. 12. All offences against the provisions of this Act may be heard and determined by any Police Magistrate or two Justices of the Colony of Western Australia, in accordance with the laws of that Colony regulating summary proceedings before Justices, and any such Police Magistrate or Justices shall for that purpose have power to hear and determine the matter at any place within the said Colony where the offender may be, or where any ship or boat with respect to which or in connexion with which the offence was committed is found, or at any place in the said Colony appointed for holding Courts of Petty Sessions, and to make



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such orders for the safe keeping, detention, seizure, forfeiture, or sale of any such ship or boat, and all things found therein, as such Police Magistrate or Justices may think fit.

- 13. If any person think himself aggrieved by any determination or Appeal. adjudication of any Police Magistrate or Justices with respect to any penalty or forfeiture under the provisions of this Act, he may appeal to the Supreme Court of Western Australia or to a Court of Quarter Sessions, in accordance with the laws of that Colony regulating appeals from Justices.
- 14. All the provisions in respect of imported labour contained in an Imported labour. Act passed by the Legislative Council of Western Australia in the fortyeighth year of Her Majesty's reign, called and known as "The Imported Labor Registry Act, 1884," shall apply as nearly as possible to the case of laborers employed in the Fishery within Australasian waters adjacent to Western Australia.
- 15. All the provisions of the Pearl Shell Fishery Acts not specially Provisions of referred to by this Act, and which can be rendered applicable to the Fisheries Acts Fishery in extra-territorial waters, are hereby rendered applicable thereto.

SCHEDULE.

A parallelogram of which the North-Western corner is in longitude 112° 52' East, and latitude 13° 30' South, of which the North-Eastern corner is in longitude 129° East, and latitude 13° 30' South, of which the South-Western corner is in longitude 112° 52' East, and latitude 35° 8' South, and of which the South-Eastern corner is in longitude 129° East, and latitude 35° 8' South.

In accordance with Act 48 & 49 Vict., Cap. 60, Section 15, I reserve this Bill for the signification of Her Majesty's pleasure.

R. G. C. HAMILTON,

Governor.

FEDERAL COUNCIL OF AUSTRALASIA.

THE AUSTRALASIAN ORDERS IN LUNACY ACT, 1891.

1891.

ANNO QUINQUAGESIMO-QUARTO VICTORIÆ REGINÆ,

No. 1.

A.D 1891

An Act to facilitate the Recognition in other Colonies of Orders and Declarations of the Supreme Court of any Colony in matters of Lunacy.

[23 January, 1891.]

Preamble. 48 & 49 Vict. ch. 60. HEREAS the Legislatures of the Colonies of Victoria, Queensland, Tasmania, and Western Australia have, pursuant to the provisions of an Act of the Imperial Parliament, intituled "An Act to constitute a Federal Council of Australasia," referred to the Federal Council the matter relating to the recognition in other Colonies of Orders and Declarations of the Supreme Court of any Colony in matters of Lunacy, for the exercise of Legislative authority thereon:

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Federal Council of Australasia, assembled at Hobart, in the Colony of Tasmania, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as "The Australasian Orders in Lunacy Act, 1891."

Interpretation.

- 2. In this Act-
- "Registrar" shall mean and include the Prothonotary, Chief Clerk, Registrar, or other Officer having authority to affix the Seal of the Supreme Court of any Colony.

Order or Declarations in Lunacy to have like effect in other Colonies on being resealed. 3. When any Order or Declaration made by the Supreme Court of any Colony in the exercise of its jurisdiction in Lunacy shall be produced to and a copy thereof deposited with the Registrar of the Supreme Court of any other Colony, such Order or Declaration shall be sealed with the Seal of the last-mentioned Court and shall have the like force and effect and have the same operation in such other Colony, and every Master, Guardian, Committee, and Receiver acting thereunder shall perform the same duties and be subject to the same liabilities in such other Colony as if such Order or Declaration had been originally made by such last-mentioned Court.



Provided, that a Guardian, Committee, or Receiver appointed under any such Order shall not have or exercise any power or authority in any Colony other than that in which the Order or Declaration was made, until his appointment has been confirmed by the Supreme Court of the Colony in which the power or authority is proposed to be exercised, or a Judge thereof, which confirmation may be granted upon such terms as to the Court or Judge may seem fit, or may be refused.

4. No such Order or Declaration shall be sealed as aforesaid until Order not to be sealed until all such stamp duty and other fees, if any, have been paid, and such fees are paid Certificate of payment, if any, has been produced as would have been payable or required respectively if such Order or Declaration had been originally made by the Supreme Court the Seal whereof is sought to be affixed.

In the name and on behalf of Her Majesty the Queen, I assent to this Act.

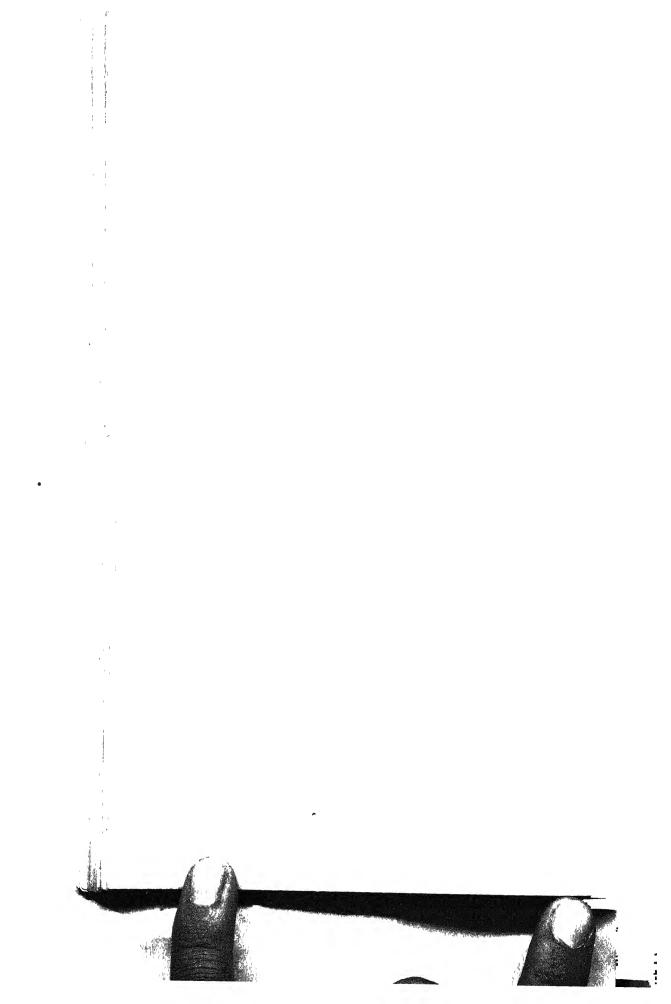
R. G. C. HAMILTON,

Governor.



APPENDIX B.

ACTS PASSED BY THE PARLIAMENTS OF THE STATES, REFERRING MATTERS TO THE PARLIAMENT OF THE COMMONWEALTH IN PURSUANCE OF SECTION 51 (**x*vii) OF THE CONSTITUTION.

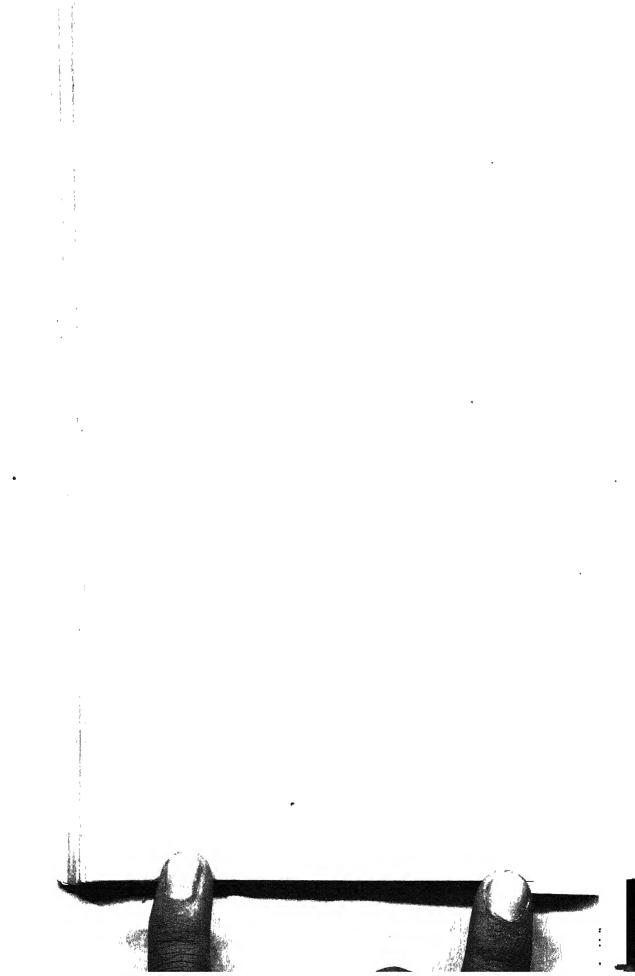


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LIST OF ACTS PASSED BY THE PARLIAMENTS OF THE STATES REFERRING MATTERS TO THE PARLIAMENT OF THE COMMONWEALTH IN PURSUANCE OF SECTION 51 (xxxvii) OF THE CONSTITUTION.

Note.—Short titles of Acts not in force at the date of the preparation of this volume are printed in italics in this Table. For information as to the operation of these Acts, and, in the case of those in force, their respective dates of commencement, see note at end of each Act.

Market and the second s			, 		
Title of Act				d Year of e Act	Page in this Volume
New South Wales					
Commonwealth Powers (War) Act 1915		••	No. 65, 19	915 .	147
Victoria.					
Commonwealth Powers (Air Navigation) Act 1920 Commonwealth Arrangements Act 1928 (Part III.) Debt Conversion Agreement Act 1931 (No. 2), s. 5	•••	••	No. 3108, No. 3658, No. 4009,	1928	1
QUEENSLAND.					
The Commonwealth Powers (Air Navigation) Act of 19 The Commonwealth Legislative Power Act, 1931	21	:-		V., No. 30 V., No. 30	
South Australia.					
Commonwealth Powers (Air Navigation) Act 1921 Commonwealth Legislative Power Act, 1931		::	No. 1469, No 2061,		159 160
Western Australia.					
Nil.					
-1					
TASMANIA.					
Commonwealth Powers (Air Navigation) Act 1920	••		11 George	V., No. 42	162



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NEW SOUTH WALES.

Act No. 65, 1915.

COMMONWEALTH POWERS (WAR) ACT 1915.

An Act to refer certain matters to the Parliament of George v. the Commonwealth for the duration of the present war, and for a period of twelve months after the conclusion of peace.

[Assented to, 21st December, 1915.]

HEREAS it is enacted by the Constitution of the Commonwealth Preamble of Australia that the Parliament of the Commonwealth shall, subject to the Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

And Whereas certain proposed laws for the alteration of the Constitution of the Commonwealth have been passed by an absolute majority of each House of the Parliament of the Commonwealth, and writs have been issued by the Governor-General for the submission of those proposed laws to the electors of the Commonwealth:

AND WHEREAS as a result of discussion which arose at a financial conference of the Premiers of the States, held in Melbourne in the month of November in the year one thousand nine hundred and fifteen, it was agreed* between the said Premiers and the Prime Minister of the Commonwealth that the Premiers would bring forward in their respective Parliaments legislation for referring to the Parliament of the Commonwealth the matters specified in this Act, and that the Government of the Commonwealth would postpone during the currency of the war the taking of the vote of the electors of the Commonwealth upon the said proposed laws for the alteration of the Constitution:

BE it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

- 1. This Act may be cited as the "Commonwealth Powers (War) Act Citation 1915."
- 2. This Act shall commence on a day to be proclaimed by the commencement. Governor.†

^{*} For details of the offer which was made by the Premiers to the Prime Minister on the occasion in question, see Note B, infra, p. 149.

† Noze.—See Note A, infra, p. 149

Reference of certain matters to the Commonwealth Parliament

- 3. Subject to the limitations and conditions in this Act contained, the following matters are hereby referred to the Parliament of the Commonwealth, that is to say:—
 - (i) Trade and commerce.

(ii) Corporations, including—

(a) the creation, dissolution, regulation, and control of

corporations;

(b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and

(c) foreign corporations, including their regulation and control.

(iii) The following matters:—

(a) Employment and unemployment.

(b) Strikes and lock-outs.

(c) The maintenance of industrial peace.

(d) The settlement of industrial disputes.

- (iv) Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State.
 - (v) Trusts, combinations, monopolies, and arrangements in relation to—

(a) the production, manufacture, or supply of goods, or the supply of services, or

(b) the ownership of the means of production, manufacture,

or supply of goods, or supply of services.

(vi) The carrying on, by or under the control of the Commonwealth, of any industry or business of producing, manufacturing, or supplying any specified goods, or of supplying any specified services, which industry or business each House of the Parliament of the Commonwealth, in the same session, has by resolution passed by an absolute majority of its members declared to be the subject of a monopoly; and the acquisition for that purpose on just terms of any property used in connexion with the industry or business:

Provided that this paragraph shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a

State.

Exemption of State rallways.

4. Nothing in this Act contained shall be construed to empower the Parliament of the Commonwealth or any authority constituted under the Commonwealth to affect the control or management of railways the property of a State, or the rates or fares on such railways.

5. This Act, and the reference made by this Act, shall continue in force for the duration of the present war between His Majesty and the





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German Empire, and for a period of twelve months after the declaration of peace, and no longer; and are subject to the limitation that no law made by the Commonwealth by virtue of the powers contained in this Act shall continue to have any force or effect, by virtue of this Act or the reference made by this Act, after the expiration of that period.

NOTE A.—This Act was not proclaimed to commence By virtue of s 5 of the Act, it expired on 9th January, 1921, (the date declared, in pursuance of s 5 of the Commonwealth Termination of the Recent War (Definition) Act 1919, to be the date of the termination of the War between His Majesty the King and Germany being 10th January, 1920 See Commonwealth Gazette, 8th March 1920, p 339)

Note B — Following a discussion at a Financial Conference of Premiers held in Melbourne in November, 1915, the following offer was made to the Prime Minister by the Premiers of New South Wales, Victoria Queensland and South Australia, who were present at that Conference — "Following upon the discussion which arose at the Financial Conference of the Premiers on the occasion of the visit of the Prime Minister, this Conference of Premiers suggests that, in order to avoid the necessity of taking a poll of the electors in December, the Commonwealth authorities concur in the proposal to postpone the referendum during the currency of the war on the following conditions —

conditions —

"I The Premiers to bring forward in their respective State Parliaments legislation to provide

"I The Premiers to bring forward in their respective State Parliaments legislation to provide "I The Fremers to bring forward in their respective State Farmaments registation to provide for the reference, during the wir and for one year after the declaration of perce, to the Commonwealth Parliament, under section 51 (xxxvii) of the Constitution, of the powers sought by the proposed alterations of the Constitution, subject to the following limitations—

(a) Railways, the property of a State, to be evenuely from the Commonwealth power so far as regards the control or management of such railways, and rates and fares on such railways.

railways.

(b) In lieu of proposal No 3 "Industrial matters,"* substitute the following —

(a) Employment and unemployment

(b) Strikes and lock-outs

(c) The meintenance of industrial peace

(d) The settlement of industrial disputes

"2 The Premiers at a later date to consider what powers they will invite from their respective Parliaments to surrender permanently under section 51 (xxxv) (sic Quaere (xxxvii)) of the Constitution

Parliaments to surrender permanently under section 51 (xxxv) (see Quaere (xxxvii)) of the Constitution

"3 With a view to removing any doubt as to the power of the State Parliaments, under section
51 (xxxvii) to refer any matter for a limited time only, an Act of the Imperial Parliament to be sought (if thought necessary) to make that power clear, and to ratify what has been done under it "

(* NOTE —The proposal No 3, "Industrial Matters, 'above referred to, is the proposal contained in the Bill entitled "Constitution Alteration (Industrial Matters) 1915", printed as Bill No 33 in Appendix D to this volume, anfra, p 249)

(* NOTE—The proposal No 3, "Industrial Matters, 'above referred to, is the proposal contained in the Bill entitled "Constitution Alteration (Industrial Matters) 1915", printed as Bill No 83 in Appendix D to this volume, vifra, p 249)

It was stated by the Prime Minister, when announcing in Parliament the acceptance of this offer, that the Premier of Western Australia had telegraphed his approval of the offer, subject to the position in which he then found himself in consequence of a motion of want of confidence. The Premier of Tasmania had also approved of the offer, subject to his not being fully committed to submitting the proposals before the end of the year, and passing them into law. (See Hansard, Vol. 78, pp. 7265-6).

Bills to arive effect to the foregoing agreement were introduced into all the State Parliaments before the end of 1915, with the following results—

New South Wates: Bill passed, as set out above

Victoria: Commonwealth Powers (War) Bill introduced into Legislative Assembly on 17th November, 1915. Second reading moved on 22nd December, 1915, and agreed to by 27 votes to 22; but as the second reading had not been carried by an absolute majority of votes, the Speaker (the Hon Sir Frank Madden) ruled that the second reading had not been carried in accordance with the requirements of the Constitution Art of the State of Victoria. A Motion to disagree with the ruling of the Speaker was moved on 23rd December, 1915, but was negatived by 29 votes to 15. The Bill therefore lapsed

Queensian? Commonwealth Powers (War) Bill introduced into the Legislative Assembly and passed through all stages in that House on 11th November, 1915, and read a first time Motion "that Bill be read a second time this day six morths" and as amended agreed to on 25th January, 1916. This resolution finally disposed of the Bill

South Australia Commonwealth Powers (War) Bill introduced into the House of Assembly on 15th November, 1915 Second reading moved and agreed to on 15th November, 1915. Third reading moved and agreed t

reading not moved.

VICTORIA.

Act No. 3108.

COMMONWEALTH POWERS (AIR NAVIGATION) ACT 1920.

An Act to refer to the Parliament of the Commonwealth certain matters in connexion with Air Navigation.

[24th December, 1920.]

Preamble.

HEREAS it is enacted by the Constitution of the Commonwealth of Australia that the Parliament of the Commonwealth shall subject to the Constitution have power to make laws for the peace order and good government of the Commonwealth with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States but so that the law shall extend only to States by whose Parliaments the matter is referred or which afterwards adopt the law:

AND WHEREAS a Convention (in this Act referred to as "the Convention") for determining by a common agreement certain uniform rules with respect to international air navigation was signed on behalf of His Majesty in Paris on the thirteenth day of October, One thousand nine hundred and nineteen:

AND WHEREAS it is expedient that provision should be made by the Parliament of the Commonwealth of Australia for any matter necessary or proper for performing the obligations of the Commonwealth towards the other contracting parties arising under the Convention (including every Annex thereto) or arising under any modification or amendment of the Convention which may be made under Article thirty-four thereof and for intercourse by aerial navigation between the State of Victoria and any country or any State of the Commonwealth:

AND WHEREAS at a conference of the Premiers of the States held in May, One thousand nine hundred and twenty it was resolved that it was desirable that each of the Parliaments of the States should refer to the Parliament of the Commonwealth the matter of the control of air navigation subject to the retention by each of the States of certain rights and powers specified in the resolution:

AND WHEREAS in order to facilitate the carrying out of the objects of the said resolution it is expedient to provide that the matters hereinafter specified should be referred to the Parliament of the Commonwealth:

BE it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative



Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

- 1. This Act may be cited as the Commonwealth Powers (Air Short title. Navigation) Act 1920.
- 2. This Act shall come into operation on a day to be proclaimed by commencement. the Governor in Council by proclamation published in the Government Gazette.*

3. The following matters are hereby referred to the Parliament Matters referred to the of the Commonwealth (that is to say):-

Parliament

- (1) Any matter necessary or proper for performing the obligations of the Commonwealth. of the Commonwealth towards the other contracting parties arising under the International Convention for the regulation of Aerial Navigation signed at Paris on the thirteenth day of October One thousand nine hundred and nineteen (including every Annex thereto) or arising under any modification or amendment of the Convention which may be made under Article thirty-four thereof, and
- (2) Intercourse by aerial navigation between the State of Victoria and any other country or any State of the Commonwealth.

Act No. 3658.

COMMONWEALTH ARRANGEMENTS ACT 1928.

An Act to consolidate the Law providing for certain matters in Victoria in connexion with the Commonwealth.

[12th February, 1929.]

E it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):--

1. This Act may be cited as the Commonwealth Arrangements Act short title 1928, and is divided into Parts as follows:-

I.—General ss. 3-6; Part

Part II.—Taxation of Salaries of State Officers ss. 7-9;

Part III.—Air Navigation ss. 10 and 11;

and as to Parts I. and II. shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

division and commencement and II.

^{*} Note —This Act was not proclaimed to come into operation. It was repealed by the Commonwealth Arrangements Act 1928, s 10 of which re-enacted provisions identical with those contained in a 3 of this Act. For copy of relevant provisions of Commonwealth Arrangements Act 1928, see infra,

Repeal Schedule. 2. The Acts mentioned in the Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed. Such repeal shall not affect any right acquired or any liability incurred or any matter or thing done under the said repealed Acts or any of them.

Preamble.

PART III .- AIR NAVIGATION.

Commonwealth Powers (Arr Navigation) Act 1920. 10. Whereas it is enacted by the Constitution of the Commonwealth of Australia that the Parliament of the Commonwealth shall subject to the Constitution have power to make laws for the peace order and good government of the Commonwealth with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States but so that the law shall extend only to States by whose Parliaments the matter is referred or which afterwards adopt the law:

AND WHEREAS a Convention (in this Act referred to as "the Convention") for determining by a common agreement certain uniform rules with respect to international air navigation was signed on behalf of His Majesty in Paris on the thirteenth day of October One thousand nine hundred and nineteen:

AND WHEREAS it is expedient that provision should be made by the Parliament of the Commonwealth of Australia for any matter necessary or proper for performing the obligations of the Commonwealth towards the other contracting parties arising under the Convention (including every Annex thereto) or arising under any modification or amendment of the Convention which may be made under Article thirty-four thereof and for intercourse by aerial navigation between the State of Victoria and any other country or any State of the Commonwealth:

AND WHEREAS at a conference of the Premiers of the States held in May One thousand nine hundred and twenty it was resolved that it was desirable that each of the Parliaments of the States should refer to the Parliament of the Commonwealth the matter of the control of air navigation subject to the retention by each of the States of certain rights and powers specified in the resolution:

AND WHEREAS in order to tacilitate the carrying out of the objects of the said resolution it is expedient to provide that the matters hereinafter specified should be referred to the Parliament of the Commonwealth it is hereby enacted that the following matters are on the coming into operation of this Part referred to the Parliament of the Commonwealth (that is to say):—

(a) Any matter necessary or proper for performing the obligations of the Commonwealth towards the other contracting parties arising under the International Convention for the regulation of Aerial Navigation signed at Paris on the thirteenth day of October One thousand nine hundred and nineteen

[•] Part I. (containing sections 3 to 6), and Part II. (containing sections 7 to 9), have not been included in this volume, as they do not relate to the reference of matters by the Parliament of the State to the Parliament of the Commonwealth.

(including every Annex thereto) or arising under any modification or amendment of the Convention which may be made under Article thirty-four thereof; and

(b) Intercourse by aerial navigation between the State of Victoria and any other country or any State of the Commonwealth.

11. This Part shall come into operation on a day to be proclaimed by commencement of Part. the Governor in Council by proclamation published in the Government Gazette.*

SCHEDULE.

Number of Act	Title of Act	Extent of Repeal
1672 2809 3108	Commonwealth Arrangements Act 1900 State Salaries (Cammonwealth Taxation) Act 1915 Commonwealth Pouers (Air Navigation) Act 1920	The whole The whole The whole

*Norr —Part III of this Act had not, up to the date of the preparation of this volume, been proclaimed to come into operation

Act No. 4009.

DEBT CONVERSION AGREEMENT ACT 1931 (No. 2).

An Act to approve an Agreement between the Commonwealth of Australia of the First Part and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania of the Second, Third, Fourth, Fifth, Sixth and Seventh Parts respectively relating to the Compulsory Conversion of the Internal Debts of the Commonwealth and the States in certain cases and to refer to the Parliament of the Commonwealth a certain Matter in connexion with the Compulsory Conversion of such Debts, and for other purposes.

[30th December, 1931.]

WHEREAS at a Conference between Ministers of the Commonwealth Preamble. and Ministers of the States held in Melbourne in the months of August and September, One thousand nine hundred and thirty-one it was resolved that in view of the fact that holdings of ninety-seven per centum

Comm. 1931 No. 18. of Government securities had been voluntarily converted pursuant to the Commonwealth Act known as the Commonwealth Debt Conversion Act 1931, the Conference agreed that 'ne small proportion of securities which had not been converted, should be converted on the same terms as the others, and that legislative action accordingly should be taken:

AND WHEREAS in order to carry out such resolution an Agreement (a copy of which is set out in the Schedule to this Act and which is referred to herein as the "Agreement") was made on the twenty-second day of October One thousand nine hundred and thirty-one between the Commonwealth of Australia of the first part the State of New South Wales of the second part the State of Victoria of the third part the State of Queensland of the fourth part the State of South Australia of the fifth part the State of Western Australia of the sixth part and the State of Tasmania of the seventh part relating to the conversion of the internal public debts of the Commonwealth and the States so far as the same have not been converted pursuant to the said Commonwealth Debt Conversion Act 1931:

AND WHEREAS it is provided in the Agreement that the Agreement shall have full force and effect, and shall be binding on all the parties, when it is approved by the Parliaments of the Commonwealth and of the States:

AND WHEREAS it is desirable to approve the Agreement so far as it relates to Victoria:

AND WHEREAS it is enacted by the Constitution of the Commonwealth of Australia that the Parliament of the Commonwealth shall subject to the Constitution (that is to say, the Constitution of the Commonwealth) have power to make laws for he peace order and good government of the Commonwealth with respect to the matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States but so that the law shall extend only to States by whose Parliaments the matters are referred or which afterwards adopt the law:

AND WHEREAS, in order to facilitate the enactment by the Parliament of the Commonwealth of legislation necessary for carrying out and giving effect to the Agreement, it is expedient to provide that a certain matter, that is to say, the compulsory conversion of existing securities into new securities within the meaning of these terms as defined in the said Commonwealth Debt Conversion Act 1931 in the cases where any such existing securities have not been converted into new securities in accordance with the provisions of the said Act and notwithstanding that any holders of those existing securities have signified or may signify their dissent under the provisions of the said Act, should be referred to the Parliament of the Commonwealth:

BE it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. (1) This Act may be cited as the Debt Conversion Agreement Act 1931 (No. 2).

Short titls.

(2) Without prejudice to any other method of citation, the citation of Commonwealth and States Financial Agreement Act 1927 and any Nos 3,554, 3 961 enactment amending the same and the Debt Conversion Agreement Act Act 1931 and this Act may be cited together as the Commonwealth and States Financial Agreements Acts.

2. (1) This Act shall come into force on a day to be fixed by commencement. proclamation of the Governor in Council published in the Government Gazette.†

(2) The Governor in Council may not make such proclamation unless Approval of Agreement by he is satisfied that the Parliament of the Commonwealth and the Parliament of each of the States of New South Wales, Queensland, South Australia, Western Australia and Tasmania have respectively passed an this Act Act approving the Agreement.

5. (1) The following matter is hereby referred to the Parliament Reference to the Commonwealth (that is to say):—

Reference to the Commonwealth Parliament Reference to the Commonwealth Parliament of the Commonwealth (that is to say):—

The compulsory conversion of existing securities into new securities within the meaning of these terms as defined in the Commonwealth Act known as the Commonwealth Debt Conversion Act 1931 in the cases where any such existing securities have not been new securities See Comm converted into new securities in accordance with the provisions Constitution of the said Act and notwithstanding that any holders of those existing solution from 1931 securities have signified or may signify their dissent under the said No 18

ment of a certain matter compulsory conversion of certain securities into

(2) For the purposes of sub-section (1) of this section, the term Saving existing securities" does not include any Treasury Bills or securities mentioned in the proviso to clause 3 of the Agreement.‡

SCHEDULE.§

[†] This Act was proclaimed to commence on 12th January, 1932. See Victoria Government Gazette, 12th January, 1932, p 49.

* Sections 3 and 4 of this Act have not been included in this volume as they do not relate to the reference of matters by the Parhament of the State to the Parliament of the Commonwealth

[†] The proviso to clause 3 of the Agreement in question is contained in Appendix C hereto, infra, p 186 § The Schedule to this Act is the agreement which is contained in Appendix C, infra, pp 185-6

QUEENSLAND.

12 George V. No. 30.

THE COMMONWEALTH POWERS (AIR NAVIGATION) ACT OF 1921.

12 George V. No. 30. The Commonwealth Powers (Air Navigation) Act of 1921 An Act to refer to the Parliament of the Commonwealth the control of Air Navigation; and for purposes connected therewith.

[Assented to 15th November, 1921.]

HEREAS it is enacted by the Constitution of the Commonwealth of Australia that the Parliament of the Commonwealth shall, subject to the Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

AND WHEREAS a convention for determining by a common agreement certain uniform rules with respect to international air navigation was signed on behalf of His Majesty in Paris on the thirtieth day of October, one thousand nine hundred and nineteen:

AND WHEREAS it is expedient that provision should be made by the Parliament of the Commonwealth for the control and regulation of the navigation of aircraft and for enabling effect to be given to the said convention:

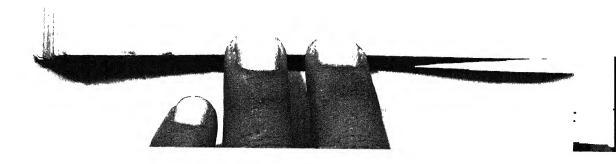
AND WHEREAS at a conference of the Premiers of the States held in May, one thousand nine hundred and twenty, it was resolved that it is desirable that each of the Parliaments of the States should refer to the Parliament of the Commonwealth the matter of the control of air navigation, subject to the retention by each of the States of certain rights and powers specified in the resolution:

BE it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as "The Commonwealth Powers (Air Navigation) Act of 1921."

Control of air navigation referred to Commonwealth Parliament. 2. Subject to the limitations and reservations in this Act contained, the control of air navigation is referred to the Parliament of the Comwealth.



- 3. Nothing in this Act shall empower the Parliament of the saving. Commonwealth, or any authority constituted or to be constituted under the Commonwealth, to affect or restrict the rights and powers of the State of Queensland in regard to-
 - (a) The acquisition or ownership by the said State of aircraft or aerodromes; or
 - (b) The use for the purpose of the Government of the said State of aircraft operating within the said State; or
 - (c) Police powers;

and such rights and powers shall be retained by the said State as if this Act had not been passed.

4. This Act shall come into operation on a day to be fixed by the pate of operation. Governor in Council by proclamation published in the Gazette.*

• Note —This Act had not, up to the date of the preparation of this volume, been proclaimed to come

22 George V. No. 30.

THE COMMONWEALTH LEGISLATIVE POWER ACT, 1931.

An Act to refer to the Parliament of the Common- 22 Geo. V. Wealth, pursuant to section 51, XXXVII., of the Commonwealth Constitution of the Commonwealth, Power to Power Act make Laws with respect to the Compulsory Conversion of certain Securities.

[Assented to 16th December, 1931.]

E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "The Commonwealth Legislative Power short title. Act, 1931," and shall come into force on a date to be fixed by the Governor in Council by Proclamation published in the Gazette.*

2. The Parliament of the State of Queensland hereby refers to the Reference to Commonwealth Parliament of the Commonwealth power to make laws for the peace, contention order, and good government of the Commonwealth with respect to the legislative following matter, namely:

^{*} This Act was proclaimed to come into force on 7th January, 1932 See Queensland Government Gazette, 9th January, 1932, p. 28.

The compulsory conversion of existing securities into new securities within the meaning of these terms as defined in the Commonwealth Act known as the Commonwealth Debt Conversion Act, 1931, in the cases where any such existing securities have not been converted into new securities in accordance with the provisions of the said Act, and notwithstanding that any holders of those existing securities have signified or may signify their dissent under the said provisions.

Saving

For the purposes of this section, the term "existing securities" does not include any Treasury bills or securities mentioned in the proviso to clause three of the Agreement contained in the Schedule to "The Debt Conversion (Further Agreement) Act of 1931."*

^{*} NOTE.—The proviso to clause 3 of the Agreement in question is contained in Appendix C. hereto, infra, p. 186.

SOUTH AUSTRALIA.

No. 1469.

COMMONWEALTH POWERS (AIR NAVIGATION) ACT 1921.

An Act to refer to the Parliament of the Commonwealth certain matters in connexion with Air Navigation.

[Assented to, 23rd November, 1921.]

HEREAS it is enacted by the Constitution of the Commonwealth Preamble. of Australia that the Parliament of the Commonwealth shall, subject to the Constitution, have power to make laws for the peace. order and good government of the Commonwealth with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred or which afterwards adopt the law:

AND WHEREAS a Convention (in this Act referred to as "the Convention") for determining by a common agreement certain uniform rules with respect to international air navigation was signed on behalf of His Majesty in Paris on the thirteenth day of October, one thousand nine hundred and nineteen:

AND WHEREAS it is expedient that provision should be made by the Parliament of the Commonwealth of Australia for any matter necessary or proper for performing the obligations of the Commonwealth towards the other contracting parties arising under the Convention (including every Annex thereto) or arising under any modification or amendment of the Convention which may be made under Article thirtyfour thereof, and for intercourse by aerial navigation between the State of South Australia and any other country or any State of the Commonwealth:

AND WHEREAS at a conference of the Premiers of the States held in May, one thousand nine hundred and twenty, it was resolved that it was desirable that each of the Parliaments of the States should refer to the Parliament of the Commonwealth the matter of the control of air navigation, subject to the retention by each of the States of certain rights and powers specified in the resolution:

AND WHEREAS in order to facilitate the carrying out of the objects of the said resolution it is expedient to provide that the matters hereinafter specified should be referred to the Parliament of the Commonwealth-

BE it therefore enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the Commonwealth Powers (Air short title. Navigation) Act 1921.

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.*

Matters referred to the Parliament of the Commonwealth Cf. Victoria 3108, 1920, s. 3.

- 3. The following matters are hereby referred to the Parliament of the Commonwealth (that is to say):—
 - I. Any matter necessary or proper for performing the obligations of the Commonwealth towards the other contracting parties arising under the International Convention for the Regulation of Aerial Navigation signed at Paris on the thirteenth day of October, one thousand nine hundred and nineteen (including every Annex thereto), or arising under any modification or amendment of the Convention which may be made under Article thirty-four thereof; and
 - II. Intercourse by aerial navigation between the State of South Australia and any other country or any State of the Commonwealth.

In the name and on behalf of H₁₈ Majesty, I hereby assent to this Bill.

W. E. G. A. WEIGALL, Governor.

Act No. 2061.

COMMONWEALTH LEGISLATIVE POWER ACT, 1931.

An Act to refer to the Parliament of the Commonwealth, pursuant to section 51, XXXVII., of the Constitution of the Commonwealth, power to make Laws with respect to the Compulsory Conversion of certain Securities.

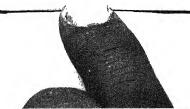
[Assented to, December 9th, 1931.]

BE it enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. This Act may be cited as the "Commonwealth Legislative Power Act, 1931".

Reference to Commonwealth of certain legislative power. 2. (1) The Parliament of the State hereby refers to the Parliament of the Commonwealth power to make laws for the peace, order, and good



^{*} NOTE.—This Act had not, up to the date of the preparation of this volume, been proclaimed to come into operation

government of the Commonwealth with respect to the following matter, namely:—

The compulsory conversion of existing securities into new securities within the meaning of these terms as defined in an Act of the Parliament of the Commonwealth, entitled the Commonwealth Debt Conversion Act, 1931, in the cases where any such existing securities have not been converted into new securities in accordance with the provisions of the said Act, and notwithstanding that any holders of such existing securities have signified or may signify their dissent under the provisions of the said Act.

(2) For the purpose of sub-section (1) of this section the term "existing securities" does not include any Commonwealth Treasury Bills issued to a Bank in Australia with the approval of the Australian Loan Council, or any securities issued with the like approval to such a Bank in exchange for such Bills.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

A. HORE-RUTHVEN, Governor.

NOTE -This Act came into operation on the date of assent.

TASMANIA.

11 George V., No. 42.

COMMONWEALTH POWERS (AIR NAVIGATION) ACT 1920.

Preamble.

An Act to refer to the Parliament of the Commonwealth the Control of Air Navigation; and for purposes connected therewith.

[20 December, 1920.]

HEREAS it is enacted by the Constitution of the Commonwealth of Australia that the Parliament of the Commonwealth shall, subject to the constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

AND WHEREAS a convention for determining by a common agreement certain uniform rules with respect to international air navigation was signed on behalf of His Majesty in Paris on the Thirtieth day of October, One thousand nine hundred and nineteen.

AND WHEREAS it is expedient that provision should be made by the Parliament of the Commonwealth for the control and regulation of the navigation of aircraft and for enabling effect to be given to the aid convention:

AND WHEREAS at a conference of the Premiers of the States held in May, One thousand nine hundred and twenty, it was resolved that it is desirable that each of the Parliaments of the States should refer to the Parliament of the Commonwealth the matter of the control of air navigation, subject to the retention by each of the States of certain rights and powers specified in the resolution:

BE it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly in Parliament assembled, as follows:—

Short title.

1. This Act may be cited as the "Commonwealth Powers (Air Navigation) Act 1920."



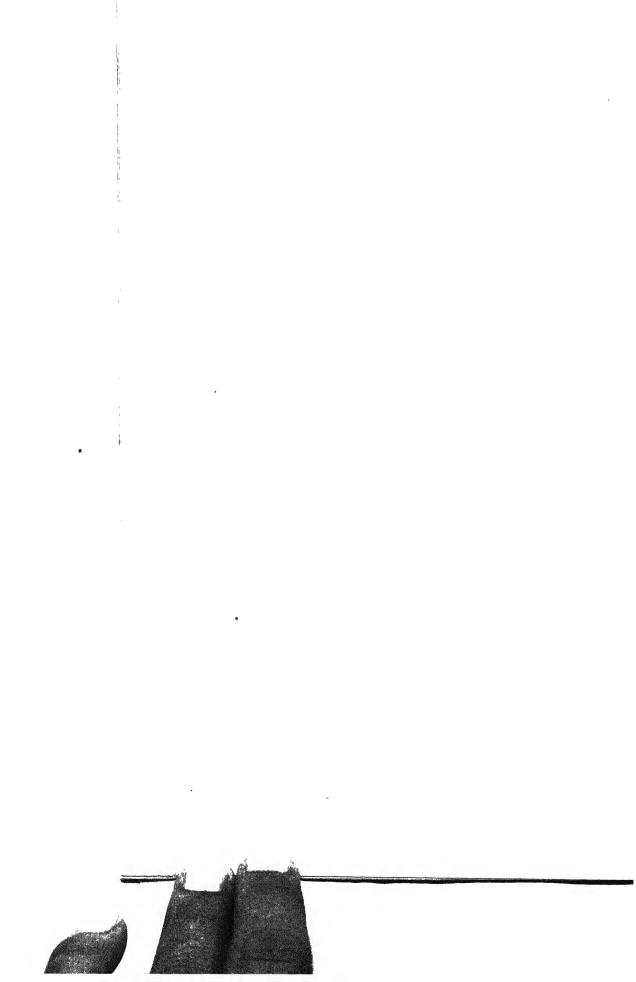
2 Cubject to the limitations and reservations in this Act contained, control of the control of air navigation is referred to the Parliament of the referred to Commonwealth Commonwealth.

Parliament.

- 3 Nothing in this Act shall empower the Parliament of the saving, Commonwealth, or any authority constitued or to be constituted under the Commonwealth, to affect or restrict the right of the State of Tasmania in regard to-
 - I The acquisition or ownership by the said State of aircraft or aerodromes: or
 - II The use for the purpose of the Government of the said State of aircraft operating within the said State · or
 - III. Police powers-

and such rights and powers shall be retained by the said State as if this Act had not been passed.

NOTE -- This Act came into operation on the date of assent



APPENDIX C.

AGREEMENTS MADE BETWEEN THE COMMON-WEALTH AND THE STATES IN RELATION TO THE PUBLIC DEBTS OF THE STATES.



1

LIST OF AGREEMENTS INCLUDED IN THIS APPENDIX.

	PAGE.
Financial Agreement—Made 12th December, 1927	167
Tasmania Sinking Fund Agreement—Made 11th September, 1928	180
Debt Conversion Agreement—Made 21st July, 1931	. 182
Debt Conversion Agreement (No. 2)—Made 22nd October, 1931	185
AGREEMENT RELATING TO SOLDIER SETTLEMENT LOANS-Made 3rd July, 1934	187

FINANCIAL AGREEMENT. (Made 12th December, 1927.)

AGREEMENT made the twelfth day of December One thousand nine hundred and twenty-seven Between the Commonwealth of Australia (in this Agreement called the Commonwealth) of the first part, The State of New South Wales of the second part, The State of Victoria of the third part, The State of Queensland of the fourth part, THE STATE OF SOUTH AUSTRALIA of the fifth part, THE STATE OF WESTERN AUS-TRALIA of the sixth part, and THE STATE OF TASMANIA of the seventh part (each of the parties of the second, third, fourth, fifth, sixth, and seventh parts being in this Agreement referred to as a State and the expression "the States" hereinafter used meaning where the context so permits or requires all of such parties).

Whereas with a view to making provision for the adjustment of Commonwealth and State financial relations the general principle of a draft scheme was affirmed by a Conference of Commonwealth and State Ministers in Melbourne which commenced on the sixteenth day of June One thousand nine hundred and twenty-seven;

AND WHEREAS permanent effect cannot be given to the proposals contained in the said scheme unless the Constitution of the Commonwealth is altered so as to confer on the Parliament of the Commonwealth power to make laws for carrying out or giving permanent effect to such proposals;

AND WHEREAS pending the submission to the electors of a proposed law for the alteration of the said Constitution as aforesaid and in order to obtain immediately some of the advantages which would result from united action by adoption of the said scheme the Commonwealth and the States have agreed that for the period commencing on the first day of July One thousand nine hundred and twenty-seven and ending on the thirtieth day of June One thousand nine hundred and twenty-nine certain of the proposed provisions of the said scheme shall be temporarily adopted:

NOW THIS AGREEMENT WITNESSETH:

PART I.

1. This Agreement shall have no force or effect and shall not be binding on any party unless and until it is approved by the Parliaments of the Commonwealth and of the States.*

The Australia the respective Acts being—
New South Wales Financial Agreement Ratification Act, 1928 (No. 14, 1928).
Victoria Commonwealth and States Financial Agreement Act 1927 (No. 3554, 1927)
Queensland: The Commonwealth and States Financial Agreement Ratification Act of 1927
(18 Geo V. No. 22)
South Australia: Financial Agreement Act, 1927 (No. 1837, 1927)
Western Australia: Financial Agreement Act, 1928 (No. 1 of 1928)
Tasmania: The Financial Agreement Act, 1927 (18 Geo V. No. 97)

^{*} NOTE.—This Agreement was approved by the Parliament of the Commonwealth by the Financial Agreement Act 1928 (No 5, 1928), and was validated by that Parliament by the Financial Agreement Validation Act 1929 (No. 4, 1929).

It was "approved and ratified" by the Parliaments of the States of New South Wales, Queensland and Tasmania, and was "approved" by the Parliaments of the States of Victoria, South Australia, and Western Australia the respective Acts being—

PUBLIC DEBTS-

PART I .- continued.

2. Definitions.

In this Agreement-

"Net Public Debt of a State existing on 30th June, 1927," means in respect of each State the amount of debt set forth hereunder opposite to the name of that State, viz.:—

New South Wales					£234,088,501
Victoria					136,949,942
Queensland					101,977,855
South Australia	• •				84,834,364
Western Australia	• •	• •	• •	• •	61,060,675
Tasmania	• •	• •	• •		22,434,060

£641,345,397

The said amount of the net public debt of each State includes the debts of that State secured by—

- (1) Inscribed Stock, including Local Inscribed Stock and Government Inscribed Stock;
- (11) Instalment Stock;
- (iii) Registered Stock;
- (iv) Funded Stock;

in manner aforesaid :-

- (v) Stock payable to bearer;
- (vi) Bonds, including registered bonds; (vii) Debentures, including registered debentures and instalment debentures;
- (viii) Treasury Bills not repayable within twelve months from the date of issue; or (ix) Fixed deposit receipts or special deposit receipts for moneys borrowed for other

than temporary purposes; issued or created by the State or by or on behalf of a Colony the predecessor of the State in respect of moneys borrowed by the Colony or State together with debts of the State to the Commonwealth of the amount set out respectively hereunder opposite to the name of the State so far as those last mentioned debts are not included by being secured

New South Wales			••		£12,553,698
Victoria					23,688,269
Queensland			• •		16,082,583
South Australia	• •				18,446,197
Western Australia					16,739,872
Tasmania .		•		• •	3,948,613
					£91,459,232

after deducting therefrom the amount for which the Commonwealth by this Agreement assumes liability under Part III, Clause 4, of this Agreement and the amount of any moneys or securities standing to the credit of a sinking fund, redemption fund, or a fund of a like nature of the State as on 30th June, 1927, and does not include any moneys raised by the State by way of overdraft, fixed deposit, or special deposit for temporary purposes only.

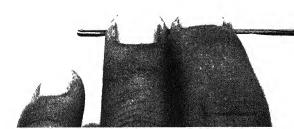
purposes only.

The said sum of £234,088,501 (being the amount of the debt of New South Wales abovementioned) comprises the debts referred to in, and has been computed in the manner shown in, the statement signed by representatives of the Commonwealth and of New South Wales.

"Gross Public Debt of a State existing on 30th June, 1927," means in respect of each State the amount of debt set forth hereunder opposite to the name of that State, viz.:—

New South Wales			 :	£239,441,363
Victoria			 	144,844,530
Queensland		• •	 	105,259,916
South Australia		• •	 	87,614,005
Western Australia	• •	• •	 • •	70,705,913
Tasmania		• •	 	24,254,688

£672,120,415



PART I., CLAUSE 2-continued.

The said amount of the gross public debt of each State includes the net public debt of that State together with the amount for which the Commonwealth by this Agreement assumes liability under Part III., Clause (4), of this Agreement and the amount of any moneys or securities standing to the credit of any sinking fund redemption fund or fund of a like nature of the State as on 30th June,

"Transferred Properties" means the properties mentioned or specified in the Schedule of Transferred Properties signed by representatives of the Commonwealth and the States as revised to the 30th June, 1927, being properties which became vested in the Commonwealth pursuant to Section 85 (1) of the Constitution of the Commonwealth.

"The Loan Council" means the Australian Loan Council created in pursuance of

this Agreement.
"Bondholder" means an owner of any—

- (i) Inscribed Stock, including Local Inscribed Stock and Government Inscribed Stock;
- (11) Instalment Stock, (iii) Registered Stock;

(iv) Funded Stock;(v) Stock payable to bearer;

(vi) Bonds, including registered bonds;

(vii) Debentures including registered debtentures and instalment debentures;

(vin) Treasury Bills not payable within twelve months from the date of issue or (ix) Fixed deposit receipts or special deposit receipts for moneys borrowed for other than temporary purposes;

issued or created by a State or by or on behalf of a Colony the predecessor of the State in respect of borrowed moneys but does not include the Commonwealth.

3. Australian Loan Council.

(a) There shall be an Australian Loan Council, which shall consist of one Minister of State of the Commonwealth to be appointed in writing from time to time by the Prime Minister of the Commonwealth to represent the Commonwealth, and one Minister of State of each State to be appointed in writing from time to time by the Premier of that State to represent that State. Provided that, if in the opinion of the Prime Minister or of any Premier of a State, special circumstances exist at any time which make it desirable so to do, a person who is not a Minister may instead of a Minister be appointed by the Prime Minister or the Premier as the case may be to represent the Commonwealth or a State as a member of the Loan Council. The name of each person appointed to represent a State shall be notified in writing by the Premier of that State to the Prime Minister.*

(b) The member representing the Commonwealth on the Loan Council shall hold office during the pleasure of the Prime Minister of the Commonwealth and a member representing a State shall hold office during the pleasure of the Premier of the State

which the member was appointed to represent.

(c) A decision in which all the members for the time being of the Loan Council concur shall be a unanimous decision of the Loan Council notwithstanding any vacancy then

existing in its membership.

(d) A meeting of the Loan Council may at any time be convened by the member representing the Commonwealth, and shall be so convened upon the request of at least three members representing States.

(e) A majority of the members of the Loan Council shall constitute a quorum of the Loan Council for the exercise of its powers at any meeting. Provided that-

(1) a member may at any time appoint in writing a deputy to act in his absence: and any deputy so appointed may in the absence of the member exercise all the powers and functions of the member and his presence shall be deemed the presence of the member; and

(ii) an absent member who has not appointed a deputy may vote by letter or by telegram, and in such case that member shall be counted as being present

in relation only to the questions on which he has voted.

(f) The Loan Council may make rules of procedure including rules relating to places, times, and notices of meetings, and conduct of business at meetings, and from time to time may alter such rules.

(g) The Commonwealth and each State will from time to time while Part II. of this Agreement is in force, and while Part III. of this Agreement is in force, submit to the Loan Council a programme setting forth the amount it desires to raise by loans for each

^{*} Note —This paragraph (a) has since been omitted by clause 18 of the Agreement dated 3rd July, 1934, relating to Soldier Settlement Loans, and a fresh paragraph has been substituted therefor. For new paragraph, see infra, pp. 191-2.

PART I., CLAUSE 3-continued.

financial year for the purposes other than the conversion, renewal or redemption of existing loans or temporary purposes. Each programme shall state the estimated total amount of such loan expenditure for the year, and the estimated amount of repayments which will be available towards meeting that expenditure. Any revenue deficit to be funded shall be included in such loan programme, and the amount of such deficit shall be set out. Loans for Defence purposes approved by the Parliament of the Commonwealth shall not be included in the Commonwealth's loan programme or be otherwise subject to this agreement.

(h) If the Loan Council decides that the total amount of the loan programme for the year cannot be borrowed at reasonable rates and conditions it shall decide the amount to be borrowed for the year, and may by unanimous decision allocate such amount between

the Commonwealth and the States.

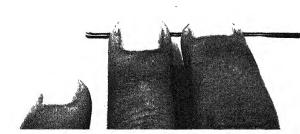
(i) If the members of the Loan Council fail to arrive at a unanimous decision under the last preceding sub-clause allocating the amount to be borrowed for any year, the amount to be borrowed for that year shall be allocated as follows —

(1) The Commonwealth shall, if it so desires, be entitled to have one-fifth or any less proportion of such amount allocated to the Commonwealth; and

- (11) Each State shall be entitled to have allocated to it a sum (being a portion of the balance of such amount) bearing to the balance of such amount the same proportion which the net loan expenditure of that State in the preceding five years bears to the net loan expenditure of all the States during the same period. Provided that any State may, if it so desires, have allocated to it a sum less than the sum to which it is entitled under this sub-clause or no sum, and that when a less sum or no sum has been allocated to any State or States in manner aforesaid the amount then remaining available for allocation shall be allocated to the other States in the proportion which the net loan expenditure of each of such other States in the preceding five years bears to the net loan expenditure of all such other States during the same period. For the purposes of this sub-clause net loan expenditure does not include expenditure for the conversion, renewal, or redemption of loans, but means the gross other loan expenditure of a State less any amounts of such expenditure repaid to the State other than moneys repaid to the State in manner stated in Part II., clause 4 (e), or Part III., clause 3 (i), of this Agreement.
- (j) If the total amount to be borrowed as aforesaid for any year is to be borrowed by means of more than one loan the Loan Council may by manimous decision apportion between the Commonwealth and the States the amount to be borrowed by each such loan other than the loan by means of which the balance of the total amount to be borrowed as aforesaid for the year is borrowed.
- (k) If the members of the Loan Council fail to arrive at a unanimous decision under the last preceding sub-clause apportioning the amount to be borrowed as aforesaid by any loan the amount to be borrowed by that loan shall be apportioned between the Commonwealth and the States in proportion to the amount then to be borrowed as aforesaid for the Commonwealth and for each State for the year.
- (1) The Commonwealth and each State will also from time to time, while Part II. of this Agreement is in force and while Part III. of this Agreement is in force, submit to the Loan Council a statement setting out the amount it requires for each financial year for the conversion, renewal or redemption of existing loans.
- (m) If the members of the Loan Council fail to arrive at a unanimous decision on any matter other than the matters referred to in sub-clauses (h) and (j) of clause 3 and sub-clause (b) of clause 4 of this part of this Agreement, the matter shall be determined by a majority of votes of the members.

On every question for decision by the Loan Council the member representing the Commonwealth shall have two votes and a casting vote, and each member representing a State shall have one vote.

- (n) A decision of the Loan Council in respect of a matter which the Loan Council is by this Agreement empowered to decide shall be final and binding on all parties to this Agreement.
- (o) In this clause the expressions "Prime Minister" and "Premier" include the persons for the time being respectively acting as such.
 - 4. FUTURE BORROWINGS OF COMMONWEALTH AND STATES.
- (a) Except in cases where the Loan Council has decided under sub-clause (b) of this clause that moneys shall be borrowed by a State, the Commonwealth, while Part II. or Part III. of this Agreement is in force, shall, subject to the decisions of the Loan Council and subject also to clauses 5 and 6 of this Part of this Agreement, arrange for



PART I, CLAUSE 4-continued.

all borrowings for or on behalf of the Commonwealth or any State, and for all conversions, renewals, redemptions, and consolidations of the Public Debts of the Commonwealth and of the States.

(b) If at any time the Lean Council by unanimous decision so decides, a State may in accordance with the terms of the decision borrow moneys outside Australia in the name of the State, and issue securities for the moneys so borrowed. The Commonwealth shall guarantee that the State will perform all its obligations to bondholders in respect of the moneys so borrowed. For all the purposes of this Agreement, including the making of sinking fund contributions, the moneys so borrowed shall be deemed to be moneys borrowed by the Commonwealth for and on behalf of that State.

(c) If any State after the 30th June, 1927, and before this Agreement has been approved by the Parliaments of the Commonwealth and of the States, has borrowed moneys in the name of the State and issued securities for the moneys so borrowed, such moneys shall for all the purposes of this Agreement, including the making of sinking fund contributions, be deemed to be moneys borrowed by the Commonwealth for and on behalf of that State.

(d) While Part II. or Part III of this Agreement is in force, moneys shall not be borrowed by the Commonwealth or any State otherwise than in accordance with this Agreement

5. Bordowing by States

For any purpose (including the redemption of securities given or issued at any time for moneys previously borrowed or used in manner stated in this clause) a State may, while Part II. or Part III. of this Agreement is in force —

(a) Subject to any maximum limits decided upon by the Loan Council from time to time for interest, brokerage, discount and other charges, borrow moneys within the State from authorities, bodies, funds or institutions (including Savings Banks) constituted or established under Commonwealth or State law or practice and from the public by counter sales of securities, and

or practice and from the public by counter sales of securities, and
(b) use any public moneys of the State which are available under the laws of the

State.

Any securities that are issued for moneys so borrowed or used shall be Commonwealth securities, to be provided by the Commonwealth upon terms approved by the Loan Council

Where any such borrowing or use is solely for temporary purposes, the provisions

of this Agreement, other than this clause, shall not apply.

Where any such borrowing or use is not solely for temporary purposes, and Commonwealth securities are issued in respect thereof, the moneys borrowed or used shall be deemed to be moneys borrowed by the Commonwealth for and on behalf of the State, and may be retained by the State. A State may convert securities given or issued at any time by that State for moneys previously borrowed or used in manner stated in this clause. New securities issued on any such conversion shall be Commonwealth securities to be provided by the Commonwealth upon terms approved by the Loan Council. The amount for which such new securities are issued shall be deemed to be moneys borrowed by the Commonwealth for and on behalf of the State.

If the moneys deemed under this clause to be moneys borrowed by the Commonwealth on behalf of a State, together with the amounts raised by the Commonwealth for and on behalf of the State exceed the toal amount of loan moneys decided upon by the Loan Council as the moneys to be raised for and on behalf of the State for the financial year in which the money is deemed to be borrowed, the excess shall, unless the Loan Council otherwise decides, be deemed to be moneys received by the State in the following

year on account of its loan programme for that year.

For the purposes of this clause counter sales of securities shall be deemed to mean sales of securities made at the offices of the State Treasury, and at such other places

as may be decided upon by the Loan Council.

The Commonwealth shall not be under any obligation to make sinking fund contributions in respect of moneys borrowed or used pursuant to this clause to meet a revenue deficit of a State, but the provisions of clause 4 (d) of Part II. and of clause 3 (j) of Part III. of this Agreement shall apply respectively to all moneys borrowed or used for that purpose.

Except in cases where the Loan Council has otherwise decided under sub-clause (b) of clause 4 of Part I. of this Agreement a State shall not have the right to invite loan

subscriptions by the issue of a public prospectus.

Notwithstanding anything contained in this Agreement, any State may use for temporary purposes any public moneys of the State which are available under the laws of the State, or may, subject to maximum limits (if any) decided upon by the Loan Council from time to time for interest, brokerage, discount, and other charges, borrow

PART I. CLAUSE 5-continued

money for temporary purposes by way of overdraft, or fixed, special, or other deposit, and the provisions of this Agreement other than this paragraph shall not apply to such moneys.

6. Borrowing by Commonwealth.

For any purpose (including the redemption of securities given or issued at any time for moneys previously borrowed or used in manner stated in this clause) the Commonwealth may—while Part II or Part III. of this Agreement is in force—

- (a) Subject to any maximum limits decided upon by the Loan Council from time to time for interest, brokerage, discount and other charges, borrow moneys within the Commonwealth from authorities, bodies, funds or institutions (including Savings Banks) constituted or established under Commonwealth or State law or practice and from the public by counter sales of securities, and
- (b) use any public moneys of the Commonwealth which are available under the laws of the Commonwealth.

Any securities that are issued for moneys so borrowed or used shall be Commonwealth securities, to be provided by the Commonwealth upon terms approved by the Loan Council.

Where any such borrowing or use is solely for temporary purposes, the provisions of this Agreement, other than this clause, shall not apply.

Where any such borrowing or use is not solely for temporary purposes, and Commonwealth securities are issued in respect thereof, the moneys borrowed or used may be retained by the Commonwealth. The Commonwealth may convert securities given or issued at any time by the Commonwealth for moneys previously borrowed or used in manner stated in this clause. New securities issued on any such conversion shall be Commonwealth securities to be provided by the Commonwealth upon terms approved by the Loan Council.

If the moneys so borrowed or used are not borrowed or used solely for temporary purposes and Commonwealth securities are issued in respect thereof, and such moneys, together with other moneys borrowed by the Commonwealth for and on behalf of the Commonwealth as part of the total amount of loan moneys decided upon by the Loan Council as the moneys to be raised for and on behalf of the Commonwealth for the financial year in which the securities are issued, exceed such total amount the excess shall unless the Loan Council otherwise decides be deemed to be moneys received by the Commonwealth in the following year on account of its loan programme for that year.

For the purposes of this clause counter sales of securities shall be deemed to mean sales of securities made at the offices of the Commonwealth Treasury, and at such other places as may be decided upon by the Loan Council.

Notwithstanding anything contained in this Agreement, the Commonwealth may use for temporary purposes any public moneys of the Commonwealth which are available under the laws of the Commonwealth or may, subject to maximum limits (if any) decided upon by the Loan Council from time to time for interest, brokerage, discount, and other charges, borrow money for temporary purposes by way of overdraft, or fixed, special or other deposit, and the provisions of this Agreement other than this paragraph shall not apply to such moneys.

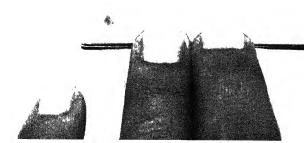
7. PAYMENT OF INTEREST AND SINKING FUNDS.

In the event of Part III. of this Agreement not coming into force each State shall in respect of all moneys borrowed by the Commonwealth for and on behalf of that State during the period commencing on the 1st July, 1927, and ending on the 30th June, 1929—

(a) pay to the Commonwealth interest at the full rate of interest payable by the Commonwealth in respect of the loan by which such moneys were borrowed or such other rate of interest as may be payable by that State to the Commonwealth under any agreement made or to be made between the Commonwealth and that State in respect of such moneys. Such interest shall be payable for the full term of that loan and be paid to the Commonwealth on the respective days upon which interest is payable by the Commonwealth in respect of that loan; and

(b) make sinking fund contributions to the National Debt Commission in respect of the loan by which such moneys were borrowed at the full rate, and for the portion unexpired on the 30th June, 1929 of the full period, provided for in the conditions under which the public were invited to subscribe to that

loan: and



PART I., CLAUSE 7-continued.

(c) pay to the Commonwealth when the loan matures an amount which (together with the sinking fund contributions made by the Commonwealth and the State in respect of that loan and the accumulations of such contributions) will be sufficient to provide for the redemption of that loan. For the purposes of this sub-clause such contributions shall be deemed to accumulate at the rate of 4½ per centum per annum compounded.

PART II.

1. This part of this Agreement shall be in force only during and in respect of the period of two years, commencing on 1st July, 1927, and ending on 30th June, 1929.

2. CONTRIBUTION BY COMMONWEALTH TO INTEREST.

The Commonwealth will in each of the said two years pay to each State by equal monthly instalments the amount set out opposite to the name of that State as shown bereinder:—

New South Wales		_			£2,917,411
Victoria			••		2,127,159
Queensland .					1,096,235
South Australia					703,816
Western Australia					473,432
Tasmania	•	•	•	• •	266,859
					£7.584.912

Each State shall apply the amount so paid to it towards payment of interest due by that State on the Public Debt of that State All amounts paid by the Commonwealth to a State in pursuance of Section 6 of the States Grants Act 1927, of the Commonwealth shall be deemed to be payments to that State under this clause.

3. TRANSFERRED PROPERTIES.

The Commonwealth will in each of the said two years pay to each State interest at the rate of 5 per centum per annum on the agreed value of transferred properties in the State, such value being in the case of each State as follows.—

New South Wales		••	• •		£4,788,005
Victoria		• •	• •		2,302,862
Queensland	•	• •	• •	•	1,560,639
South Australia	•	••	• •	•	1,035,631 $736,432$
Western Australia Tasmania	• •	• •	••	• •	500.754
rasmama	••	•	••	• •	000,70±
Total	_				£10,924,323

4. SINKING FUNDS.

(a) In each of the said two years the Commonwealth will pay from revenue a sinking fund contribution at the rate of 2s. 6d. per annum for each £100 of the net Public Debts of the States existing on 30th June, 1927, and each State (other than the State of New South Wales) will pay from revenue a sinking fund contribution at the rate of 5s. per annum for each £100 of the net public debt of that State existing on 30th June, 1927. The State of New South Wales will in the financial year commencing 1st July, 1928, pay from revenue a sinking fund contribution at the rate of 5s. for each £100 of

the net public debt of that State existing on 30th June, 1927.

(b) Where in respect of any debt included in the gross public debt of a State existing on 30th June, 1927, there is under laws or contracts existing at that date an obligation to provide a sinking fund at a rate in excess or 7s. 6d. per annum for each £100, any amount to be so provided in excess of the rate of 7s. 6d. per annum for each £100 shall be provided out of the National Debt Sinking Fund established under the laws of the Commonwealth. Provided that if any law imposing such an obligation is repealed or is amended so as to reduce the rate of sinking fund to be provided, the only amount (if any) to be provided out of the National Debt Sinking Fund pursuant to this sub-clause in respect of that debt shall, as from the date of such repeal or amendment, be the amount (if any) by which the reduced rate of sinking fund for the time being exceeds 7s. 6d. per annum for each £100.

PART II., CLAUSE 4-continued.

- (c) In respect of each loan raised after the 30th June, 1927, either by a State or by the Commonwealth for and en behalf of a State (other than a loan raised for the conversion, renewal, or redemption of a loan or for temporary purposes) the Commonwealth and that State shall, subject to the next succeeding sub-clause as from the date of the raising of that loan, each pay from revenue a sinking fund contribution at the rate of five shillings (5s.) per annum for each £100 of the amount of such loan. Provided, however, that the liability of the State of New South Wales to make sinking fund contributions under this sub-clause shall commence on the 1st July, 1928. The provisions of this sub-clause apply to a loan raised after the 30th June, 1927, to meet a revenue deficit which accrued on or before that date.
- (d) In respect of any loan raised after 30th June, 1927, by a State or by the Commonwealth for and on behalf of a State to meet a revenue deficit accruing after that date no sinking fund contribution shall be payable by the Commonwealth, but that State shall pay from revenue a sinking fund contribution at a rate of not less than 4 per centum per annum on the amount of that loan.
- (e) Where loan moneys have been advanced by a State under terms providing for the repayment of such moneys, the State shall as and when such moneys are repaid pay such moneys either to the State Loan Fund or to the account or fund from which such moneys were advanced, or to the sinking fund hereinafter mentioned, and shall, in addition, make from revenue its sinking fund contributions in respect of the loan or loans from which the moneys so advanced were provided.

Provided that when loan moneys have been advanced by a State to a Public or Local Authority or body constituted by the State or under the laws of the State and the Authority or body repays such moneys out of its revenue the State may out of moneys so repaid make its sinking fund contributions in respect of the loan moneys so advanced.

(f) All sinking fund contributions to be made in pursuance of this Part of this Agreement shall be paid to the National Debt Commission constituted under the National Debt Sinking Fund Act 1923-25, of the Commonwealth (herein called the National Debt Commission) as follows:—

(1) as regards the net public debt of a State existing on 30th June, 1927—by halfyearly instalments on 30th September and 31st March in each financial year, or on such other dates as may be agreed between the Commonwealth and the State:

(11) as regards loans raised after 30th June, 1927—by equal instalments on the dates on which interest on such loans is payable or on such other dates as may be agreed upon between the Commonwealth and the State concerned.

- (g) Where the conditions relating to sinking funds, redemption funds, and funds of a like nature require payments to be made to trustees, the National Debt Commission will either directly or through any State concerned, make the necessary payments to those trustees.
- (h) The sinking fund contributions made under this Part of this Agreement in respect of the Public Debt of a State (other than contributions paid or to be paid to trustees under the last preceding sub-clause hereof) shall so far as the same will suffice be applied in the repurchase or redemption of the Public Debt of that State and in the event of the proposed law for the alteration of the Constitution referred to in Part IV. of this Agreement not becoming law and of this Agreement not being validated thereunder, on or before the 30th June, 1929, all State securities repurchased or redeemed as aforesaid shall be cancelled with the exception of securities the market value of which represents the amount of money provided in excess of the rate of 7s. 6d. per annum for each £100 under paragraph (b) of this clause, which latter securities shall be retained by and belong to the National Debt Commission.

PART III.

This Part of this Agreement shall not come into force or be binding upon any party hereto unless before the 1st July, 1929, the Constitution of the Commonwealth has been altered in accordance with the proposals referred to in Part IV. of this Agreement and a law of the Parliament of the Commonwealth has been made thereunder validating this Agreement, but shall come into full force and effect if and when before the said date the Constitution is so altered and this Agreement is so validated.

When this Part of this Agreement comes into force every matter or thing done and payment made under or in pursuance of Part II. of this Agreement shall be deemed, so far as is practicable, to have been done or made under this Part of this Agreement to the same extent as if this Part had then in fact been in force, and all necessary adjustments shall be made in respect of moneys so paid in order to ensure that no party hereto shall be liable for or make double payments in respect of the same matter



PART III.—continued. PERMANENT PROVISIONS.

1. TAKING OVER STATES' PUBLIC DEBTS.

Subject to the provisions of this Part of this Agreement the Commonwealth will take over on the 1st July, 1929.—

- (1) the balance then unpaid of the gross public debt of each State existing on 30th June, 1927; and
- (11) all other debts of each State existing on the 1st July, 1929, for moneys borrowed by that State which by this Agreement are doemed to be moneys borrowed by the Commonwealth for and on behalf of that State—

and will in respect of the debts so taken over assume as between the Commonwealth and the States the liabilities of the States to bondholders.

2. PAYMENT OF INTEREST.

(a) Subject to this clause the Commonwealth will pay to bondholders from time to time interest payable on the Public Debts of the States taken over by the Commonwealth as aforesaid other than debts due by the States to the Commonwealth.

(b) The Commonwealth will in each year during the period of 58 years, commencing on 1st July, 1927, provide by equal monthly instalments the following amounts in respect of each State as shown hereunder towards the interest payable by that State —

New South Wales					£2.917.411
Victoria			•••	• • •	2,127,159
Queensland					1,096,235
South Australia	•	• •	•	• •	703,816
Western Australia	• •	•	• •	• •	473,432
Tasmania	• •	• •	• •	• •	266,859

£7,584,912

- (c) Each State shall in each year during the same period of 58 years pay to the Commonwealth the excess over the amounts to be provided by the Commonwealth under the last preceding sub-clause necessary to make up as they fall due the interest charges falling due in that year on the public debt of that State taken over by the Commonwealth as aforesaid and then unpaid, and on any moneys borrowed by the Commonwealth on behalf of that State and then unpaid, and after the expiration of the said period each State shall in each year pay to the Commonwealth, as they fall due, the whole of the interest charges on any debt then unpaid and included in the public debt of that State taken over by the Commonwealth as aforesaid, and on any moneys borrowed by the Commonwealth on behalf of that State and then unpaid
- (d) The method by which payments shall be made by a State under sub-clause (c) of this clause shall be arranged from time to time between the Commonwealth and that State
- (e) The rate of interest payable under sub-clause (c) of this clause in respect of moneys borrowed by the Commonwealth on behalf of a State shall be the full rate of interest payable by the Commonwealth in respect of the loan by which such moneys were borrowed or such other rate of interest as may be payable by the State to the Commonwealth under any Agreement made or to be made between the Commonwealth and that State in respect of such moneys and such interest shall be payable by the State for the full term of that loan.

3. Sinking Funds.

- (a) A sinking fund at the rate of 7s. 6d. per annum for each £100 of the net public debts of the States existing on 30th June, 1927, shall be established in the manner hereinafter set forth.
- (b) During the period of fifty-eight years commencing on the 1st July, 1927, the Commonwealth shall pay from revenue annually a sinking fund contribution at the rate of 2s. 6d. for each £100 of the net public debts of the States existing on 30th June, 1927, and each State (other than the State of New South Wales) shall in each year during the said period pay from revenue a sinking fund contribution at the rate of 5s. for each £100 of the net public debt of such State existing on 30th June, 1927. The State of New South Wales during the period of fifty-eight years commencing on the 1st July, 1928, shall in each year pay from revenue a sinking fund contribution at the rate of 5s. for each £100 of the net public debt of that State existing on 30th June, 1927.

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PART III., CLAUSE 3-continued

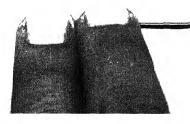
- (c) Where in respect of any debt included in the gross Public Debt of a State existing at the 30th June, 1927, there is under laws or contracts existing at that date an obligation to provide a sinking fund at a rate in excess of 7s. 6d. per annum for each £100, any amount to be so provided in excess of 7s. 6d. per annum for each £100 shall be provided out of the National Debt Sinking Fund, established under the laws of the Commonwealth. Provided that if any law imposing such an obligation is repealed or is amended so as to reduce the rate of sinking fund to be provided the only amount (if any) to be provided out of the National Debt Sinking Fund pursuant to this sub-clause in respect of that debt shall as from the date of such repeal or amendment be the amount (if any) by which the reduced rate of sinking fund for the time being exceeds 7s. 6d. per annum for each £100.
- (d) When a loan is issued for the conversion, renewal, or redemption of any debt of a State included in the gross Public Debt of that State existing on 30th June, 1927, the only sinking fund contributions to be made by the Commonwealth and that State in respect of the debt so converted, renewed, or redeemed shall be sinking fund contributions at the same rate and for the same period and upon the same amount as if such debt had not been converted, renewed, or redeemed.
- (e) Subject to sub-clauses (h) and (j) of this clause a sinking fund at the rate of 10s. per annum for each £100 of the amount of each new loan raised by a State or by the Commonwealth for and on behalf of a State after 30th June, 1927, shall be established
- (f) Subject to sub-clauses (h) and (j) of this clause, in each year during the period of fifty-three years from the date of the raising after 30th June, 1927, of any new loan by a State or by the Commonwealth for and on behalf of a State the Commonwealth and that State shall each pay from revenue a sinking fund contribution of a sum equal to 5s, for each £100 of the amount of the new loan.

Provided that the period of fifty-three years during which the State of New South Wales shall make sinking fund contributions in respect of new loans raised in the financial year beginning on the 1st July, 1927, shall commence on the 1st July, 1928.

- (g) For the purpose of the last two preceding sub-clauses a loan issued after the 30th June, 1927, to meet a revenue deficit which accrued on or before that date shall be deemed to be a new loan, but a loan issued for the conversion, renewal or redemption of a debt shall not be deemed to be a new loan, and where a loan is issued partly for the conversion, renewal, or redemption of a debt and partly for other purposes so much orly of the loan as has been issued for other purposes, shall be deemed to be a new loan.
- (h) Where it is agreed between the Commonwealth and a State that a loan or any portion of a loan raised after 30th June, 1927, and expended or to be expended upon wasting assets should be redeemed within a shorter period than fifty-three years, the annual sinking fund contributions of the State in respect of that loan or the portion thereof, shall be increased to an amount which with the sinking fund contributions of the Commonwealth in respect of that loan or the portion thereof will provide for the redemption of that loan or the portion thereof will provide for the redemption of that loan or the portion thereof shall cease on the expiration of the shorter period, but the Commonwealth contributions in respect of that loan shall continue for the remainder of the period of fifty three years from the date of the raising of that loan, and during such remainder of the period the State contributions to the sinking fund in respect of other loans of that State shall be reduced by the amount of the Commonwealth contributions during that remainder of the period in respect of such redeemed loan or the portion thereof. For the purposes of this subclause the sinking fund contributions of the Commonwealth and the State shall be deemed to accumulate at the rate of 4½ per centum per annum compounded.
- (i) Where loan moneys have been advanced by a State under terms providing for the repayment of such moneys the State shall as and when such moneys are repaid pay such moneys either to the State Loan Fund or to the account or fund from which such moneys were advanced, or to the sinking fund and shall in addition make from revenue its sinking fund contributions in respect of the loan or loans from which the moneys so advanced were provided.

Provided that when loan moneys have been advanced by a State to a Public or Local Authority or body constituted by the State or under the laws of the State and the Authority or body repays such moneys out of its revenue the State may out of moneys so repaid make its sinking fund contributions in respect of the loan moneys so advanced.

(j) In respect of any loan raised after the 30th June, 1927, by a State or by the Commonwealth for and on behalf of a State to meet a revenue deficit accruing after that date no sinking fund contribution shall be payable by the Commonwealth, but that State shall for a period sufficient to provide for the redemption of that loan pay



PART III . CLAUSE 3-continued.

from revenue in each year during such period a sinking fund contribution at a rate of not less than 4 per centum of the amount of that loan. For the purposes of this subclause the sinking fund contributions of the State shall be deemed to accumulate at the rate of $4\frac{1}{2}$ per centum per annum compounded

- (k) All sinking fund contributions to be made in pursuance of this part of this Agreement shall be debts payable to the National Debt Commission as follows:—
 - (1) As regards the not public debt of a State existing on 30th Junc, 1927—by half-yearly instalments on 30th September and 31st March in each financial year or on such other dates as may be agreed between the Commonwealth and that State.
 - (11) As regards loans raised after 30th June, 1927—by equal instalments on the dates on which interest on such loans is payable or on such other dates as may be agreed upon between the Commonwealth and the State concerned.
- (l) Subject to the next succeeding sub-clause all moneys and securities standing to the credit of sinking funds, redemption funds and funds of a like nature of a State existing on 30th June, 1929, shall forthwith be transferred by the States to the National Debt Commussion. Nothing in this sub-clause contained shall be deemed to limit the power of a State to cancel before 30th June, 1929, any such securities
- (m) Where the conditions relating to sinking funds, redemption funds, and funds of a like nature as aforesaid held by a State on trust or by trustees under statutory or contractual obligations preclude the transfer of those funds to the National Debt Commission, such funds shall remain under the control of the State or those trustees, and the National Debt Commission will either directly or through the State concerned make all future payments to the State or to those trustees from the sinking fund.
- (n) The sinking funds to be established under this Agreement shall be controlled by the National Debt Commission The National Debt Commission may arrange with any State to act as its agent in connexion with payments due to bondholders.
- (o) Sinking Fund contributions made under this Agreement in respect of the debts of a State and funds of that State transferred to the National Debt Commission under sub-clause (l) of this clause will not be accumulated, but (subject to sub-clauses (m) and (p) of this clause) will be applied to the redemption of the public debts of that State and of loans raised by the Commonwealth for and on behalf of that State, or to the purchase of securities issued in respect thereof
- (p) If at any time it is deemed inexpedient by the National Debt Commission to apply sinking funds in the manner set forth in sub-clause (o) of this clause, such funds may be temporarily invested in any securities in which the National Debt Commission is from time to time by law authorized to invest moneys.
- (q) When a security issued in respect of a public debt of a State or of a loan raised by the Commonwealth for and on behalf of a State is repurchased or redeemed by the National Debt Commission such security shall be cancelled—
 - (1) If a repurchased security—on the last day of September, December, March, or June next ensuing after the date of repurchase, or on the date of maturity of the security whichever shall first occur, and
 - (11) if a redeemed security—on the date of redemption.

In addition to the sinking fund contributions otherwise payable in respect of that debt or loan the State concerned shall—

- (i) as from the date of cancellation of each security and for the full period during which the said sinking fund contributions are payable make from revenue a further sinking fund contribution at the rate of $4\frac{1}{2}$ per centum per annum of the face value of the cancelled security, and
- (11) also pay to the National Debt Commission interest on the face value of each repurchased security at the rate provided by the security from the last date preceding the repurchase upon which interest was payable under the terms of the security up to the date of cancellation of the security.

4. TRANSFERRED PROPERTIES.

It is agreed that all questions between the Commonwealth and the States relating to State properties transferred to the Commonwealth or acquired by the Commonwealth under section 85 of the Constitution shall be settled as follows:—

The States will as from 1st July, 1929, and as between the Commonwealth and the States be completely free and discharged from all liability whether in respect of principal interest or sinking fund, or otherwise, which liability shall be assumed by the Commonwealth in respect of so much of the public debts of the States bearing interest

PART III., CLAUSE 4-continued.

at the rate of 5 per centum per annum, taken over by the Commonwealth as aforesaid as amounts to the agreed value of transferred properties, namely, £10,924,323 apportioned to the several States as follows:-

New South Wales					£4,788,005
Victoria			• •		2,302,862
Queensland .		• •	•		1,560,639
South Australia	• •	• •	• •	•	1,035,631
Western Australia	• •	••	• •	•	736,432 500,754
Tasmania	• •	•	•		500,754
Total	• •				£10,924,323

The particular portion of the public debt of each State in respect of which the States shall become free and discharged from liability shall be determined by the Commonwealth.

Each State will issue to the Commonwealth freehold titles (or, if the laws of any State do not permit of the issue of freehold titles, then titles as near to freehold as the laws of that State will permit) for transferred properties consisting of land or interests in land in that State, and all liability of the Commonwealth to the State in respect of transferred properties shall as from the 1st July, 1929, be extinguished.

The provisions of clauses 2 and 3 of this Part of this Agreement shall not apply to

the said amount of £10,924,323

PART IV.-MISCELLANEOUS.

1. EXPENSES OF LOAN FLOTATION.

Each State shall repay to the Commonwealth all expenses incurred or payments, made by the Commonwealth in the performance of this Agreement in relation to the State including the following expenses and payments:-

(1) Loan flotation charges, (11) Management charges;

(iii) Stamp duties on transfer of securities;

(iv) Commission on payment of interest;

(v) Expenses incurred in the conversion renewal redemption or consolidation of loans;

(vi) Exchange on transference of moneys

Unless it is otherwise agreed between the Commonwealth and a State the Commonwealth will not do anything in connexion with a loan of that State existing on the 30th June, 1927, or raised thereafter pursuant to this Agreement which if done by that State would be a breach of any now existing agreement by that State with any Bank.

A certificate by the Auditor-General of the Commonwealth stating the amount to be repaid by a State to the Commonwealth and the matter in respect of which the repayment is to be made shall in the event of a dispute be conclusive as to the amount and matter stated.

2 ALTERATION OF THE CONSTITUTION.

The Commonwealth will take the necessary action to submit to the Parliament of the Commonwealth and to the electors proposals for the alteration of the Constitution of the Commonwealth in the following form:—
"105a. (1) The Commonwealth may make agreements with the States with respect

to the public debts of the States, including-

(a) the taking over of such debts by the Commonwealth;

(b) the management of such debts;

(c) the payment of interest and the provision and management of sinking funds in respect of such debts,

(d) the consolidation, renewal, conversion, and redemption of such debts;

(e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and

(f) the borrowing of money by the States or by the Commonwealth or by the Commonwealth for the States.

(2) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.



PART IV., CLAUSE 2-continued.

- (4) Any such agreement may be varied or rescinded by the parties thereto.
- (5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto, notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.
- (6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section 105 of this Constitution."

3. Indemnity.

Lach State agrees with the Commonwealth that it will by the faithful performance of its obligations under this Agreement indemnify the Commonwealth against all liabilities whatsoever in respect of the public debt of that State taken over by the Commonwealth as aforesaid (other than the habilities of the Commonwealth under this Agreement to pay interest and to make sinking fund contributions and under clause 4 of Part III. of this Agreement), and in respect of all loans of that State in respect of which this Agreement provides that sinking fund contributions shall be made.

4. ACCOUNTS.

Separate accounts shall be kept by the Commonwealth for each State in respect of Debt, Interest, and Sn.king Funds.

In Witness whereof the Prime Minister of the Commonwealth of Australia and the Premiers of each of the States of New South Wales, Victoria, Queensland, South Australia, Western Australia, and Tasmania have signed this Agreement respectively for and on behalf of the Commonwealth of Australia and of the said States.

Signed by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of—

S. M. BRUCE.

EARLE PAGE.

Signed by the Premier of the State of New South Wales for and on behalf of the said State in the presence

T. R. BAVIN.

B. S. STEVENS.
Signed by the Premier of the State of

Victoria for and on behalf of the said State in the presence of—

E. J. HOGAN.

H. A. PITT.

Signed by the Premier of the State of Queensland for and on behalf of the said State in the presence of—

W. McCORMACK.

J. MULLAN.

Signed by the Premier of the State of South Australia for and on behalf of the said State in the presence of—

 $ce of \longrightarrow R. L. BUTLER.$

H. TASSIE.

Signed by the Premier of the State of Western Australia for and on behalf of the said State in the presence of—

P. COLLIER.

GEO. W. SIMPSON.

Signed by the Premier of the State of Tasmania for and on behalf of the said State in the presence of—

J. A. LYONS.

J. ALLAN GUY.

TASMANIA SINKING FUND AGREEMENT.

(Made 11th September, 1928.)

AGREEMENT made the eleventh day of September One thousand nine hundred and twenty-eight between the Commonwealth of Australia (hereinafter called the "Commonwealth") of the one part and The State of Tasmania of the other part:

Whereas an Agreement dated the twelfth day of December One thousand nine hundred and twenty-seven was made between the Commonwealth of the first part and the several States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania respectively of the second, third, fourth, fifth, sixth and seventh parts, a copy of which Agreement is set forth in the Schedule to the Financial Agreement Act 1928 of the Commonwealth of Australia and which Agreement is hereinafter referred to as the "Financial Agreement":

AND WHEREAS the Financial Agreement has been approved by the Parliaments of the Commonwealth and of each of the said several States

And whereas it is provided by paragraph (l) of Clause 3 of Part III. of the Financial Agreement as follows:—

"(I) Subject to the next succeeding sub-clause all moneys and securities standing to the credit of sinking funds, redemption funds and funds of a like nature of a State existing on 30th June, 1929, shall forthwith be transferred by the States to the National Debt Commission. Nothing in this sub-clause contained shall be deemed to limit the power of a State to cancel before 30th June, 1929, any such securities."

AND WHEREAS on the first day of July, 1928, there stood to the credit of the sinking fund of the State of Tasmania certain securities of the Commonwealth which the State of Tasmania desires to cancel:

AND WHEREAS It has been agreed between the parties hereto that the said securities of the Commonwealth shall not be cancelled by disposal thereof by sale to the public but that such securities shall be handed by the State of Tasmania to the Commonwealth in reduction pro tanto of the debt of Three million nine hundred and forty-eight thousand six hundred and thirteen pounds (£3,948,613) due by the State of Tasmania to the Commonwealth as set forth in Clause 2 of Part I of the Financial Agreement.

Now this Agreement Witnesseth as follows:--

- 1. This Agreement shall have no force or effect and shall not be binding on either party unless and until it is approved by the Parliaments of the Commonwealth and of the State of Tasmania.*
- 2. The State of Tasmana shall forthwith deliver to the Commonwealth the securities of the Commonwealth of the nominal value of One million one hundred and thirty-nine thousand eight hundred and sixty-three pounds three shillings and sixpence (£1,139,863 3s. 6d.) particulars of which securities are set forth in the First Schedule hereto and hereby as from the first day of July One thousand nine hundred and twenty-eight releases and discharges the Commonwealth from all liability in respect of the said securities.
- 3. It is agreed that the value of the said securities as on the first day of July One thousand nine hundred and twenty-eight is One million one hundred and forty-two thousand three hundred and ninety-four pounds (£1,142,394).
- 4. The Commonwealth hereby as from the first day of July One thousand nine hundred and twenty-eight releases and discharges the State of Tasmania from liability for the total sum of One million one hundred and thirty-seven thousand seven hundred and twenty pounds (£1,137,720) particulars of which are set forth in the Second Schedule hereto, being portion of the said debt of Three million nine hundred and forty-eight thousand six hundred and thirteen pounds (£3,948,613) due by the State of Tasmania to the Commonwealth as set forth in Clause 2 of Part I of the Financial Agreement.
- 5. It is agreed that the value of the portion of the debt hereby released and discharged as on the first day of July One thousand nine hundred and twenty-eight is One million one hundred and forty-two thousand three hundred and ninety-four pounds (£1,142,394).





^{*} NOTE —This Agreement was approved by the Parliament of the Commonwealth by the Tasmana Sinking Fund Agreement Act 1928 (No. 43, 1928), and by the Parliament of the State of Tasmania by The Commonwealth and State Public Debt Redemption Agreement Act, 1928 (19 Geo. V., No. 16)

6. Nothing herein contained shall be construed as affecting any right or obligation of either party hereto under the Financial Agreement.

IN WITNESS whereof the Commonwealth of Australia and the State of Tasmania have executed these presents.

Signed by the Prime Minister of the Commonwealth of Australia for and on behalf of the S M. Bruce. said Commonwealth in the presence of-G. B. COOKE

Private Secretary to Prime Minister.

Signed by the Premier of the State of Tasmania for and on behalf of the said State in the J. C. McPher. presence of-P. J. STRUTT Under-Treasurer.

FIRST SCHEDULE.

SECURITIES OF THE COMMONWEALTH TO BE DELIVERED BY THE STATE OF TASMANIA TO THE COMMONWEALTH

	Descrip	tion of Se	curity.		Nominal Val		
Date of Matur	ıty		Rate of Interest	Security Redeemable	Securities to delivered to Commonwe	th	e
15th September, 1928 31st May, 1929 15th March, 1930 15th December, 1930 15th December, 1931 15th February, 1933 31st May, 1934 15th December, 1936 15th December, 1936 15th February, 1938 15th December, 1941 15th December, 1941 15th February, 1943 15th September, 1943		::	0\\\^5 6 6 6 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	Australia Total	£ 49,010 1,300 16,700 333,950 850 1,300 30,233 11,900 92,300 104,600 5,000 83,700 359,600 49,520 £1,139,863	s. 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	

SECOND SCHEDULE.

Liabilities of the State of Tasmania to the Commonwealth to be Discharged.

_	Descrip	tion of Se	curity.			Nominal Value of Securities to be			
Date of Matu	rıty.		Rate of Interest	Security Redeemable		cancelled		5	
			%			£	s.	\overline{d} .	
15th March, 1930			% 6	Australia		282,970	0	0	
15th December, 1931			$5\frac{1}{4}$	Australia		120,940	0	0	
15th February, 1933		. 1	$5\frac{1}{4}$	Australia		124,000	0	0	
15th March, 1935			6	Australia		129,460	0	9	
15th December, 1936			51	Australia		45,540	0	0	
15th February, 1938			5 1 4 54 54 55 5	Australia		43,000	0	0	
15th December, 1941			51	Australia		210,140	0	0	
loth February, 1943	• 1		5}	Australia		128,700	0	0	
lst July, 1945–75	••		5	London	• •	52,970	0	0	
				Total		£1,137,720	Ø	0	

DEBT CONVERSION AGREEMENT.

(Made 21st July, 1931.)

AGREEMENT made the twenty-first day of July One thousand nine hundred and thirty-one BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this Agreement called the Commonwealth) of the first part, THE STATE OF NEW SOUTH WALES of the second part, THE STATE OF VICTORIA of the third part, THE STATE OF QUEENSLAND of the fourth part, THE STATE OF SOUTH AUSTRALIA of the fifth part, THE STATE OF WESTERN AUSTRALIA of the sixth part, and THE STATE OF TASMANIA of the seventh part (each of the parties of the second, third, fourth, fifth, sixth, and seventh parts being in this Agreement referred to as a State, and the expression "the States" in this Agreement meaning where the context so permits or requires all of such parties):

WHEREAS by section 105A of the Constitution it is provided that the Commonwealth may make agreements with the States with respect to the public debts of the States, including (inter alia) the consolidation, renewal, conversion, and redemption of such debts:

AND WHEREAS at a Conference between Ministers of the Commonwealth and Ministers of the States convened in Melbourne on the twenty-fifth day of May, 1931, it was resolved, as part of a plan for establishing the financial stability of the Commonwealth and of the States, that a conversion should be arranged of the internal public debts of the Commonwealth and of the States and the following conditions were provisionally agreed upon as recommendations by the Conference to the Australian Loan Council, namely:-

General Conditions.

- 1. Holders of all existing securities to be invited to convert their holdings into new stock—conversion to apply to all securities the holders of which do not dissent as prescribed by Commonwealth law.
- 2. On conversion all existing securities to be subject to a general reduction of 22½ per cent. in the interest yield provided that holders of 3, 31, and 31 per cent. stocks who acquired such securities prior to 4th August, 1914, shall not have their interest reduced below 3 per cent.
- 3. New securities to be restricted to three flat rates of interest, viz., 4, 3_5^2 , and 3 per cent., and to be spread over ten (10) fixed maturity dates as follows, subject to the Government having the right to redeem in whole or in part at any time after 31st December, 1950 -

Period-Yea	urs.				Rate of	Intere	st per cent.
7							4 and 3
10							4
13							4 and 3
16			• •				4 and 37
19							4
22				• •			4
24				• •			4
26							4
28	• •	• •	• •				4
30							4 and 3

4. The new securities to be Commonwealth securities, and to be in the form of bearerbonds, debentures, or inscribed stock, &c., as at present.

NOTE.—This Agreement was approved by the Parliaments of the Commonwealth and of the States by the following Acts —

Commonwealth: Debt Conversion Agreement Act 1931 (No. 14, 1931).

New South Wales: Debt Conversion Agreement Act, 1931 (No. 27, 1931)

Victoria: Debt Conversion Agreement Act 1931 (No. 3953, 1931).

Queensland: The Debt Conversion Agreement Act of 1931 (22 Geo. V., No. 2), as amended by the Debt Conversion Agreement Act of 1931 (22 Geo. V., No. 3).

South Australia: Debt Conversion Agreement Act, 1931 (No. 2002, 1931)

Western Australia: Debt Conversion Agreement Act, 1931 (No. 6, 1931).

Tasmania: The Debt Conversion Agreement Act, 1931 (22 Geo. V., No. 1).





NOTE.—This Agreement was approved by the Parliaments of the Commonwealth and of the States

- 5. The equivalent amount of new stock to be determined by actuarial valuation after taking into account the interest rate and date of maturity of each existing security, and after allowing for the general reduction of 22½ per cent. in the interest yield.
- 6. Existing securities (£450,000,000) now bearing interest at 5½ per cent. and over to be converted into 4 per cent. at a premium. As a general rule each holding to be spread equally over the ten maturity dates, but special arrangements to be made to consolidate small holdings on conversion.
- 7. Existing securities (£45,000,000) now bearing interest at 5 per cent. to be converted, at option of holder, into $3\frac{7}{8}$ per cent. stock at par, maturing in sixteen years, or 4 per cent. stock (at a discount).
- 8. Existing securities (£61,000,000) now bearing interest at less than 5 per cent. to be converted, at option of holder, into 3 per cent. stock maturing in seven years and thirteen years (at a premium), or into 4 per cent. stock (at a discount).
- 9. To facilitate the issue of new securities, all fractions below £10 to be paid off in cash, subject to holders being entitled to contribute cash to make up the next higher £10.
- 10. The interest on the new securities to be free from the present Commonwealth super-tax of 7½ per cent., and from any further taxation which may be imposed by the Commonwealth or by any State, but to be subject to other existing Commonwealth and State taxes.
- 11. Where overseas trade money has been temporarily invested in short-term securities, because of exchange difficulties, the holders to be given the right to convert into a short-term new security, subject to other conditions similar to the main conversion

Special Conditions Applicable to Tax-Free Securities.

- 12. Tax-free securities with definite dates of maturity-
- (i) Holders to be invited to convert into new securities subject to the general reduction of 22½ per cent. in the interest yield, with the proviso set out in clause 2 above.
- (ii) Holders of tax-free securities who so convert to be given new securities at the reduced rates, such securities to be tax-free only until the existing date of maturity.
- (iii) The new securities issued to replace the tax-free securities maturing in 1932, 1933, and 1934 to be re-converted on maturity dates into 4 per cent. securities maturing in 1941, on the same basis as other conversions into the new 4 per cent. issue.
- (iv) The new securities to replace all other tax-free securities to retain their present maturity dates.
- 13. Tax-free securities which are "Interminable," "Redeemable at option of Government," &c.—

Holders to be invited to convert into new securities, subject to the general reduction of $22\frac{1}{2}$ per cent. in the interest yield, with the proviso set out in clause 2 above, the general conditions attaching to the new securities to be the same as those attaching to the original securities.

Government Securities Held by State Savings Banks.

14. Dates of maturities of securities held by the State Savings Banks to stand, if so desired by the Treasurer of the State concerned, on same conditions as conversion issue.

Treasury Bills.

15. The rate of interest on Treasury Bills taken up by the banks in Australia to be reduced to 4 per cent., and all other questions in relation to the Bills to be settled by the Loan Council in consultation with the banks.

Loan Council.

16. The terms herein set out to be regarded as recommendations by the Conference to the Loan Council, which it is to be understood is at liberty to modify any details of the plan, and to settle all details not included above:

AND WHEREAS the said conditions with certain modifications have been embodied in a Bill for an Act to be known as the Commonwealth Debt Conversion Act 1931 which has been passed by both Houses of the Federal Parliament and is ready for presentation to the Governor-General for the Royal assent and is hereinafter referred to as the said Act:

AND WHEREAS there have been incorporated in the said Act additional provisions deemed to be convient for carrying out the said conditions as so inclified as aforesaid:

Now this Agreement Witnesseth:

- 1. This Agreement shall have full force and effect, and shall be binding on all the parties, when it is approved by the Parliaments of the Commonwealth and of the States *
- 2. The Commonwealth is authorized to arrange and effect a conversion, on the basis of a twenty-two and a half per centum reduction of interest, in accordance with the terms and conditions of sections three, eight, and ten to twenty-two inclusive, of the said Act, of all public debts of the States the liability for which has been assumed by the Commonwealth under the Financial Agreement hereinafter mentioned and the interest and principal of which are payable in Australia, and of all public debts of the Commonwealth (including borrowings by the Commonwealth for or on behalf of a State under the said Financial Agreement) the interest and principal of which are payable in Australia. The said sections of the said Act shall be binding upon the parties hereto as part of this Agreement
- 3. The Commonwealth will take the necessary action to submit to the Federal Parliament any legislation necessary to carry out or give effect to this Agreement.
- 4. So far as the provisions of this Agreement may not be in accordance with any provisions of the Financial Agreement between the parties hereto, dated the 12th day of December, 1927, the provisions of this Agreement shall prevail.
- 5. Subject to the last preceding clause, the provisions of the said Financial Agreement, and the undertakings and obligations of the Commonwealth and of the States therein contained, shall apply to the public debts after conversion in the same manner as they applied before conversion.

Signed by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of—
G. L. CAMPBELL.

J. H. SCULLIN.

Signed by the Premier of the State of New South Wales for and on behalf of the said State in the presence of— C. R. CHAPMAN.

JOHN T LANG.

Signed by the Premier of the State of Victoria for and on behalf of the said State in the presence of— H. A. PITT.

E. J. HOGAN.

Signed by the Premier of the State of Queensland for and on behalf of the said State in the presence of—G. W. WATSON.

A. E. MOORE.

Signed by the Premier of the State of South Australia for and on behalf of the said State in the presence of—
S. R. WHITFORD.

LIONEL L. HILL.

Signed by the Premier of the State of Western Australia for and on behalf of the said State in the presence of— L. E. SHAPCOTT, J. P.

JAMES MITCHELL.

Signed by the Premier of the State of Tasmania for and on behalf of the said State in the presence of— E. PARKES

J. C. McPHEE.

* Note.—See footnote, supra, p. 182.



DEBT CONVERSION AGREEMENT (No. 2). (Made 22nd October, 1931.)

AGREEMENT made the twenty-second day of October One thousand nine hundred and thirty-one BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the first part THE STATE OF NEW SOUTH WALES of the second part THE STATE OF VICTORIA of the third part THE STATE OF QUEENSLAND of the fourth part the State of South Australia of the fifth part the State of Western Australia of the sixth part and the State of Tasmania of the seventh part (the expression States" in this agreement meaning where the context so permits or requires all of the parties of the second, third, fourth, fifth, sixth and seventh parts):

WHEREAS by section 105A of the Constitution it is provided that the Commonwealth may make agreements with the States with respect to the public debts of the States, including (inter alia) the consolidation, renewal, conversion and redemption of such

AND WHEREAS by an Agreement made the twenty-first day of July One thousand nine hundred and thirty-one between the parties hereto the Commonwealth was authorized to arrange and effect a conversion, on the basis of a 221 per cent. reduction of interest, in accordance with the terms and conditions now contained in sections 3, 8 and 10 to 22 inclusive of the Commonwealth Debt Conversion Act 1931 (hereafter called "the said Act") of all public debts of the States the liability for which has been assumed by the Commonwealth under the Financial Agreement between the parties hereto dated the twelfth day of December One thousand nine hundred and twenty-seven and the principal and interest of which are payable in Australia and of all public debts of the Commonwealth (including borrowings by the Commonwealth for or on behalf of a State under the said Financial Agreement) the interest and principal of which are payable ın Australia :

AND WHEREAS by the said Act provision has been made for the conversion into new securities of existing securities, comprised in the said public debts, the holders of which did not, within the time and in the manner prescribed, signify dissent from the conversion:

And whereas approximately ninety-seven per centum of existing securities have been converted under the said Act, and it is expedient that the remainder of the existing securities should be converted on the same terms and conditions:

Now this Agreement Witnesseth:

- 1. This agreement shall have full force and effect, and shall be binding on all the parties, when it is approved by the Parliaments of the Commonwealth and of the States.*
- 2. In this agreement the terms "existing securities" and "new securities" have the same meaning as in the said Act.
- 3. Notwithstanding anything in the above-recited Debt Conversion Agreement or in the said Act contained, every holder of existing securities which have not been converted into new securities in accordance with the provisions of the said Act shall, notwithstanding that any holder of those existing securities may have signified or may signify dissent, be deemed to have made an application in accordance with section 9 of the said Act for their conversion into new securities, and they shall be deemed to be so converted accordingly:

⁻This Agreement was approved by the Parliaments of the Commonwealth and of the States

^{*} Nore —This Agreement was approved by the Parliaments of the Commonwealth and of the by the following Acts:—

Commonwealth: Debt Conversion Agreement Act (No 2) 1931 (No. 52, 1931)

New South Wales: Debt Conversion Agreement (No 2) Act, 1931 (No. 60, 1931).

Victoria. Debt Conversion Agreement Act 1931 (No. 2) (No. 4009, 1931).

Queensland: The Debt Conversion (Further Agraement) Act of 1931 (22 Geo V., No. 29).

South Australia: Public Debt Conversion Agreement (No 2) Act, 1931 (No. 2047, 1931).

Western Australia: Debt Conversion Agreement Act (No. 2), 1931 (No. 48, 1931).

Tasmania: The Debt Conversion Agreement Act (No. 2), 1931 (No. 48, 1931).

PROVIDED that nothing in this clause shall apply to Commonwealth Treasury Bitis issued to a Bank in Australia with the approval of the Australian Loan Council or to securities issued with the like approval to such a Bank in exchange for such Bills.

- 4. THE Government of the Commonwealth will take the necessary action to submit to the Federal Parliament any legislation necessary to carry out and give effect to this agreement.
- 5. So far as this agreement may not be in accordance with the provisions of the said Financial Agreement the provisions of this agreement shall prevail
- 6. Subject to the last preceding clause, the provisions of the said Financial Agreement and the undertakings and obligations of the Commonwealth and of the States therein contained shall apply to the public debts after conversion in pursuance of clause 3 of this agreement in the same manner as they applied before such conversion.
 - Signed by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of—F. STRAHAN
 - Signed by the Premier of the State of New South Wales for and on behalf of the said State in the presence of—

C. R. CHAPMAN

- Signed by the Premier of the State of Victoria for and on behalf of the said State in the presence of—

 C. C. GALE
- Signed by the Premier of the State of Queensland for and on behalf of the said State in the presence of—

 G. W. WATSON
- Signed by the Premier of the State of South Australia for and on behalf of the said State in the presence of—

 M. A. F. PEARCE
- Signed by the Premier of the State of Western Australia for and on behalf of the said State in the presence JAMES MITCHELL of—

 L. E. SHAPCOTT, J. P.
- Signed by the Premier of the State of Tasmania for and on behalf of the said State in the presence of—

 E. PARKES





AGREEMENT RELATING TO SOLDIER SETTLEMENT LOANS. (Made 3rd July, 1934.)

AGREEMENT made the third day of July One thousand nine hundred and thirty-four BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this Agreement called "the Commonwealth") of the first part THE STATE OF NEW SOUTH WALES of the second part THE STATE OF VICTORIA of the third part THE STATE OF QUEENSLAND of the fourth part THE STATE OF SOUTH AUSTRALIA of the fifth part THE STATE OF WESTERN AUSTRALIA of the sixth part and The State of Tasmania of the seventh part (each of the parties of the second third fourth fifth sixth and seventh parts being in this Agreement referred to as a "State" and the expression "the States" hereinafter used meaning where the context so permits or requires all of such parties).

Whereas this Agreement is supplemental to an Agreement (hereinafter referred to as the "Financial Agreement") made the twelfth day of December One thousand nine hundred and twenty-seven between the same parties as are parties hereto with respect to the public debts of the States including-

(a) the taking over of such debts by the Commonwealth; and

(b) the payment of interest and the provision of Sinking Funds in respect of such

which Agreement has been approved by the Parliaments of the Commonwealth and of the States;

AND WHEREAS the Commonwealth has lent to each of the States certain sums for the purposes of settling on the land returned soldiers and their dependants and other persons being settlers as defined in this Agreement and has received from each of the States certain sums as repayment in part of the said sums lent as aforesaid particulars of the sums so lent and so repaid being set forth in the Schedule hereto;

AND WHEREAS the balances of the said several sums lent by the Commonwealth to each State after deducting from such sums respectively the said several sums repaid by that State to the Commonwealth are included in the amount of the net public debt of that State existing on 30th June 1927 as set forth in the said Financial Agreement,

And whereas the Commonwealth and the States have agreed pursuant to section 105A of the Commonwealth Constitution that the provisions hereinafter contained shall apply to the aforesaid portion of the said public debt of each State and that the Financial Agreement as altered by the two several Agreements made the 21st July 1931 and the 22nd October 1931 between the parties hereto shall be varied accordingly.

Now it is hereby agreed as follows:-

1. This Agreement shall have no force or effect and shall not be binding on any party unless and until it is authorized or approved by the Parliaments of the Commonwealth and of the States.*

* Note.—This Agreement was authorized or approved by the Parhaments of the Commonwealth and of the States by the following Acts, and in the terms indicated:—

States by the following Acts, and in the terms indicated:

Commonwealth. Soldier Settlement Loans (Financial Agreement) Act 1935, (No 26, 1935).

Agreement "approved".

New South Wales: Financial Agreement (Returned Soldiers Settlement) Ratification Act, 1935, (No 1, 1935). Agreement "ratified, authorized and approved".

Victoria: Commonwealth and States Financial Agreement Act 1934, (No 4246, 1934).

Queensland: The Commonwealth and States Soldier Settlement Agreement and Agreement Amendment Approval Act of 1934, (25 Geo V, No. 15). Agreement 'approved, adopted, authorized, ratified and confirmed".

South Australia: Supplementary Financial Agreement (Soldier Settlement Loans). Act, 1934, (No 2178, 1934). Agreement "ratified and approved".

Western Australia: Soldier Land Settlement Act, 1934, (No 8, 1934). Agreement "approved and ratified".

Tasmana. Financial Agreement (Soldier Settlement). Act 1934, (25 Geo V, No. 17).

Tasmama. Financial Agreement (Soldier Settlement) Act 1934, (25 Geo V, No 17) Agreement approved

- 2. In this AGREEMENT-
- (a) Any person who was at any time after the fourth day of August One thousand nine hundred and fourteen and before the thirty-first day of August One thousand nine hundred and twenty-one—
 - (1) a member of the Naval or Military Forces enlisted or appointed for or employed on active service outside Australia or employed in a ship of war; or
 - (11) a member of the Army Medical Corps Nursing service accepted or appointed by the Director-General of Medical Services for services outside Australia, or
 - (in) serving in the Naval or Military Forces of any part of the King's Dominions other than the Commonwealth on proof to the satisfaction of the State concerned that he had before his enlistment or appointment for service resided in the Commonwealth; or
 - (iv) a member of the Army Medical Corps Nursing service of any part of the King's Dominions other than the Commonwealth on proof to the satisfaction of the State concerned that she had before her acceptance by or appointment to that service resided in Australia;

shall be deemed to be a member of the Forces within the meaning of this Agreement;

- (b) "Dependant" means a widow or mother or child (including an ex-nuptial child) of a deceased member of the Forces who was wholly or in part dependent upon the earnings of or upon the member of the Forces at any time during the period of twelve months prior to his becoming a member of the Forces;
- (c) "Munition Worker' means a person who during the continuance of the war between His Majesty the King and the German Emperor and between His Majesty the King and the Emperor of Austria King of Hungary—
 - (i) entered into an agreement with the Commonwealth or the Minister of State for Defence to proceed to Great Britain for the purpose of—
 - (1) engaging in the work of producing munitions for the Imperial Government or otherwise, or
 - (2) serving under the Imperial Government in the Ministry of Munitions; and
 - (11) engaged or served as aforesaid and whose agreement with the Commonwealth or the Minister of State for Defence was not determined by reason of his failure to observe and perform in all respects the terms and conditions contained in the Agreement and on his part to be observed and performed or by reason of his dismissal from any work in Great Britain during the continuance of the Agreement because of any conduct of the worker which in the opinion of the said Minister was such as to justify the determination of the Agreement;
- (d) "War Worker" means a person who during the continuance of the war between His Majesty the King and the German Emperor and between His Majesty the King and the Emperor of Austria King of Hungary entered into an agreement with the Commonwealth or the Minister of State for Defence to Great Britain for the purpose of engaging in work as a labourer fettler or navry for the Imperial Government or otherwise and engaged in such work and whose agreement with the Commonwealth or the Minister of State for Defence was not determined by reason of his failure to observe and perform any term or condition contained in the Agreement and on his part to be observed and performed or by reason of his dismissal from any work in Great Britain during the continuance of the Agreement because of any conduct of the worker which in the opinion of the said Minister was such as to justify the determination of the Agreement;
 - "Settler" means a person approved by a State as suitable for settlement upon the land in that State and who was at any time after the fourth day of August One thousand nine hundred and fourteen and before the thirty-first day of August One thousand nine hundred and twenty-one—
 - (i) a member of the Forces; or
 - (ii) a munition worker; or
 - (iii) a war worker; or

(e)



who is a dependant, and includes-

- (1) any other person who was a soldier of the Imperial Reserve Forces called up for active service during the war between His Majesty the King and the German Emperor and between His Majesty the King and the Emperor of Austria King of Hungary; and
- (2) any other person who served during the said war in the Naval or Military Forces of any part of the King's Dominions other than the Commonwealth on active service cutside that Dominion; and who was settled on the land by that State or lodged with that State an application for land on or before the thirtieth day of October One thousand nine hundred and twenty,
- (f) "Home maintenance area" means such an area as when worked by an industrious settler will under average seasons and circumstances return him sufficient to meet his commitments to the State and to maintain himself and family in reasonable comfort
- 3 Eacii State acknowledges to have received on loan from the Commonwealth for the purpose of sattling on the land returned soldiers and their dependants and other persons being settlers as defined in this Agreement the several sums set forth with respect to that State in column two of the Schedule hereto.
- 4. The Commonwealth acknowledges to have received from each State in part repayment of the said moreys lent to that State the several sums set forth with respect to that State in column 3 of the Schedule hereto.
- 5. The Commonwealth acknowledges to have received from each State interest up to the first day of October One thousand nine hundred and twenty-five on the several sums set forth with respect to that State in column 4 of the Schedule hereto (being the balances of the several sums set forth with respect to that State in column 2 of the said Schedule after deducting from such sums respectively the several sums set forth with respect to that State in column 3 of the said Schedule) and on the sums set forth in column 3 up to the date of their repayment at the rates of interest per annum set forth in column 1 of the said Schedule opposite such balances respectively.
- 6. The Commonwealth agrees to write off and reduce as at the first day of October One thousand nine hundred and twenty-five the indebtedness of each State in respect of the several sums set forth with respect to that State in column 4 of the Schedule hereto by the several sums set forth with respect to that State in column 5 of the said Schedule.
- 7. Each State agrees to complete as far as practicable the satisfactory settlement of those persons being settlers as defined in this Agreement who are now on the land in that State particularly with respect to the provision of home maintenance areas.
- 8. In addition to the reduction effected by Clause 6 the Commonwealth agrees to write off and reduce as at the thirtieth day of June One thousand nine hundred and twenty-seven the indebtedness of each State in respect of the several sums set forth with respect to that State in column 4 of the Schedule hereto by the several further sums set forth with respect to that State in column 7 of the said Schedule and the Commonwealth acknowledges that from the thirtieth day of June 1927 the sums set forth in column 8 of the said Schedule with respect to each State are the only amounts owing by that State in respect of the sums set out with respect to that State in column 2 of the said Schedule.
 - 9. Each State acknowledges-
 - (a) That after its indebtedness to the Commonwealth in respect of the several sums set forth with respect to that State in column 4 of the Schedule hereto has been written off and reduced by the several sums set forth with respect to that State in column 5 of the said Schedule as mentioned in Clause 6 it will then (but without prejudice to Clause 8) be indebted to the Commonwealth in the several sums set forth with respect to that State in column 6 of the said Schedule; and
 - (b) That after its indebtedness to the Commonwealth in respect of the several sums set forth with respect to that State in column 4 of the Schedule hereto has been written off and reduced by the several further sums set forth with respect to that State in column 7 of the said Schedule as mentioned in Clause 8 it will then be indebted to the Commonwealth in the several sums set forth with respect to that State in Column 8 of the said Schedule.

- 10. The Commonwealth acknowledges that each State has paid to the Commonwealth-
 - (a) From the first day of October 1925 to the thirtieth day of June 1927 interest on the amount for the time being unrepaid of each of the several sums set forth with respect to that State in column 6 of the Schedule hereto: and
 - (b) From the first day of July 1927 to the thirty-first day of December 1930 interest on the amount for the time being unrepaid of each of the several sums set forth with respect to that State in column 8 of the Schedule hereto

at the rates of interest per annum set forth in column 1 of the said Schedule opposite the said sums respectively , and

- (c) From the first day of January One thousand nine hundred and thirty-one to the thirty first day of July One thousand nine hundred and thirty-one interest on the amount for the time being unrepaid of each of the several sums set forth with respect to that State in column 8 of the Schedule hereto at the rate of five pounds per centum per annum in lieu of the interest at the rates set forth in column 1 of the said Schedule opposite the said sums respectively; and
- (d) From the first day of August One thousand nine hundred and thirty-one to the first day of July One thousand nine hundred and thirty-three interest on the amount for the time being unrepaid of each of the several sums set forth with respect to that State in column 8 of the Schedule hereto at the rate of four pounds per centum per annum in lieu of the interest at the rates set forth in column I of the said Schedule opposite the said sums respectively.
- 11. Each State acknowledges that for the period of five years from the date of payment of each instalment of the moneys set forth with respect to that State in column 2 of the Schedule hereto the Commonwealth has made to that State a rebate of interest equal to two and one-half per centum $(2\frac{1}{2}\%)$ per annum calculated on the full amount of the instalment.
- 12. Each State (other than the State of Queensland) acknowledges that the Commonwealth has allowed to that State interest at the rate of two and one-half per centum (2½%) per annum for the period of five years on such amount of the bonds of that State issued by that State for the purpose of placing settlers on the land as is set forth hereunder with respect to that State namely—

		£	3.	đ.
New South Wales	 	 348,900	0	0
Victoria	 	 2,199,631	19	3
South Australia	 	 194,827	0	10
Western Australia	 	 106,603	0	0
Tasmania	 	 11,936	8	1

- 13. On advances made by a State out of the moneys specified with respect to that State in column 2 of the said Schedule to settlers as defined in this Agreement for the purpose of effecting improvements on the land or for purchasing implements stock and things necessary for the successful cultivation of the land the settlers shall pay to the State interest—
 - (a) for the period commencing on the 1st July One thousand nine hundred and twenty-five and ending on the thirty-first day of July One thousand nine hundred and thirty-one at a reasonable rate not exceeding 3½ per centum in the first year and not exceeding in any subsequent year 3½ per centum plus ½ per centum in respect of each subsequent year after the first year but not exceeding in any case the full rate of interest payable by the State to the Commonwealth upon the money lent plus working expenses; and
 - (b) on and after the first day of August One thousand nine hundred and thirty-one at any rate but not exceeding in any case the rate of five per centum per annum.

- 14. On the principal moneys owing by a settler to a State in respect of land purchased or resumed by that State and paid for out of the moneys specified with respect to that State in column 2 of the Schedule hereto the settler shall pay to the State interest—
 - (a) for the period commencing on the first day of July One thousand nine hundred and twenty-five and ending on the thirty-first day of July One thousand nine hundred and thirty-one at a rate not exceeding the rate of interest payable by the State to the Commonwealth upon the money lent plus working expenses; and
 - (b) on and after the first day of August One thousand nine hundred and thirty-one at any rate but not exceeding in any case the rate of five per centum per annum.
- 15. It is agreed that the indebtedness of each State to the Commonwealth under this Agreement as set forth in column 8 of the Schedule hereto shall be adjusted as follows:—

As from the first day of July One thousand nine hundred and thirty-three and as between the Commonwealth and each State each State will be free and discharged from all hability for repayment of the moneys lent to it by the Commonwealth as hereinbefore mentioned and in lieu of such hability will assume hability in respect of so much of the public debt represented by Australian Consolidated Inscribed Stock and Australian Consolidated Treasury Bonds bearing interest at the rate of four per centum per annum as is equivalent to the amount of the said indebtedness of the State to the Commonwealth and to the same extent as if the amount of such Australian Consolidated Inscribed Stock and Australian Consolidated Treasury Bonds were public debt of the State existing on 30th June 1927 and taken over by the Commonwealth under Part III. of the Financial Agreement and the Commonwealth will as from the first day of July One thousand nine hundred and thirty-three assume in respect of the said amount of such Australian Consolidated Inscribed Stock and Australian Consolidated Treasury Bonds the like liabilities and to the same extent as if such amount of such Australian Consolidated Inscribed Stock and Australian Consolidated Treasury Bonds were included in and part of (but not additional to) the amount set forth in the Financial Agreement as the public debt of the State existing on the thirtieth day of June One thousand nine hundred and twenty-seven and taken over by the Commonwealth under Part III. of the Financial Agreement and the Australian Consolidated Inscribed Stock and Australian Consolidated Treasury Bonds shall be allotted as nearly as practicable equally among the several dates of maturity specified in Section 19 of the Commonwealth Debt Conversion Act 1931.

- 16. NOTHING in this Agreement contained shall affect or impair the obligations of any State to the Commonwealth or of the Commonwealth to any State in respect of debts of that State to the Commonwealth included in the amount of the "net Public Debt of a State existing on 30th June 1927" as set forth in the Financial Agreement and not included in the sums set forth in the Schedule to this Agreement.
- 17. ANY notice or communication to be given or made by the Commonwealth to a State under this Agreement shall be deemed to have been duly given or made if signed by or on behalf of the Treasurer of the Commonwealth and sent by prepaid post addressed to the Treasurer of that State and any notice or communication to be given or made by a State to the Commonwealth under this Agreement shall be deemed to have been duly given or made if signed by or on behalf of the Treasurer of that State and sent by prepaid post addressed to the Treasurer of the Commonwealth.
- 18. And whereas certain doubts have been raised concerning the interpretation of sub-clause (a) of Clause 3 of Part I. of the Financial Agreement in relation to the appointment of Ministers of State to represent the Commonwealth and the States as members of the Loan Council and it is desirable to remove such doubts.

Now it is agreed that Clause 3 of Part I. of the Financial Agreement is hereby varied by omitting sub-clause (a) and inserting in its stead the following sub-clause:—

There shall be an Australian Loan Council which shall consist of one representative of the Commonwealth who shall be— $\,$

(a) the Prime Minister of the Commonwealth; or

- (b) in the absence of the Prime Minister at any time from a meeting of the Council a Minister nominated in writing by the Prime Minister, and one representative of each State who shall be—
 - (a) the Premier of that State; or
 - (b) in the absence of the Premier at any time from a meeting of the Council—a Minister nominated in writing by the Premier of that State.

Provided that if, in the opinion of the Prime Minister or of any Premier of a State, special cucumstances exist at any time which make it desirable so to do, the Prime Minister or the Premier, as the case may be, may nominate some other person to represent the Commonwealth or the State (as the case may be) as a member of the Loan Council.

Any nomination of a representative of a State shall be notified in writing by the Premier of the State to the Prime Minister.

AND IT IS FURTHER AGREED that the Financial Agreement shall be read and construed as if the amendments to Clause 3 of Part I. of that Agreement. Insofar as they authorize the Prime Minister and the Premier of a State to represent respectively the Commonwealth or a State on the Australian Loan Council, had been incorporated in that Agreement at the date of the making thereof.

In witness whereof the parties hereto have executed this Agreement the day and year first before written.

Signed by the Treasurer of the Commonwealth for and on behalf of the Commonwealth in the presence of—

F J McKENNA.

J. A. LYONS.

SIGNED by the Treasurer of the State of New SOUTH WALES for and on behalf of the State In the presence of—

C. R. CHAPMAN.

SIGNED by the Treasurer of the State of Victoria for and on behalf of the State in the presence of—

H A PITT.

STANLEY S ARGYLE.

SIGNED by the Acting Treasurer of the State of QUEENSLAND for and on behalf of the State in the presence of—
H STANLEY

SIGNED by the Treasurer of the State of SOUTH
AUSTRALIA for and on behalf of the State in
the presence of—
R. R. STUCKEY

SIGNED by the Treasurer of the State of WESTERN
AUSTRALIA for and on behalf of the State in
the presence of—
A BERKELEY

A BERKELEY

SIGNED by the Treasurer of the State of TASMANIA for and on behalf of the State in the presence of—
P J STRUTT

E DWYER GRAY

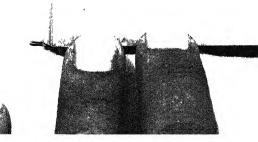
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annum applicable to the sums shown opposite thereto.	State by the Commonwealth to 30th June 1925.	State to the Commonwealth to 30th June 1925.	State to the Commonwealth at 30th June 1925.	proportion to the sums owing at the various rates of interest	Commonwealth after 1st October 1925	sums owing at the various rates of interest	Commonwealth after 30th June 1927.
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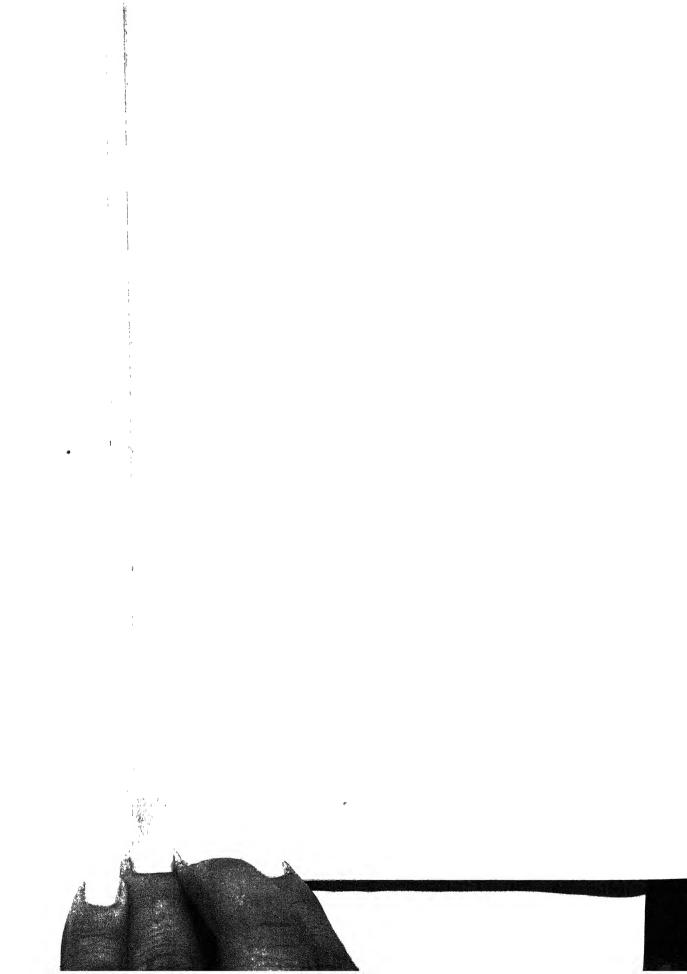
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APPENDIX D.

BILLS TO ALTER THE CONSTITUTION, INTRODUCED INTO THE PARLIAMENT OF THE COMMON-WEALTH FROM 1901 TO 1935 (INCLUSIVE).



1.IST OF CONSTITUTION ALTERATION BILLS INTRODUCED INTO THE PARLIAMENT OF THE COMMONWEALTH FROM 1901 TO 1935.

Consecutive No of Bill *	Short Title or Subject Matter of Bill, with year of introduction.	Page in this Volume
	1903.	
1	Commonwealth Constitution Amendment [Seat of Government]	199
	1906.	
2	Constitution Alteration [Nationalization of Monopolies]	200
3† 4	Constitution Alteration (Senate Elections)	201 204
5	Constitution Alteration (State Debts)	204
	1909.	
6	Constitution Alteration [Nationalization of Monopolies]	206
7 8†	Constitution Alteration (Creation of Court of Criminal Appeals) Constitution Alteration (Finance)	207
9	Constitution Alteration (Industrial Conditions)	208 212
10†	Constitution Alteration (State Debts)	213
	1910.	
11†	Constitution Alteration (Legislative Powers)	214
12† 13	Constitution Alteration (Monopolies)	217 219
10	Constitution Alteration (Unincation)	219
	1912.	
14†	Constitution Alteration (Corporations)	229
15† 16†	Constitution Alteration (Industrial Matters) Constitution Alteration (Nationalization of Monopolies)	230 232
17†	Constitution Alteration (Railway Disputes)	233
18†	Constitution Alteration (Trade and Commerce)	234
19†	Constitution Alteration (Trusts)	235
	1913	
20	Constitution Alteration (Corporations)	236
21 22	Constitution Alteration (Industrial Matters)	237 238
23	Constitution Alteration (Nationalization of Monopoles) Constitution Alteration (Railway Disputes)	238
24	Constitution Alteration (Trade and Commerce)	240
25	Constitution Alteration (Trusts)	241
	1914.	
26	Constitution Alteration (Corporations)	242
27	Constitution Alteration (Industrial Matters)	243
28 29	Constitution Alteration (Nationalization of Monopolies) Constitution Alteration (Railway Disputes)	244 245
30	Constitution Alteration (Trade and Commerce)	246
31	Constitution Alteration (Trusts)	247

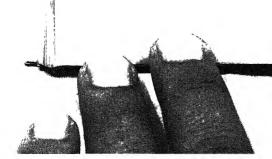
LIST OF CONSTITUTION ALTERATION BILLS, ETC. -continued.

Consecutive No. of Bill.*	Short Title or Subject Matter of Bill, with year of introduction	Page in this Volume.
	191ő.	*
32‡ 33‡ 34‡ 35‡ 36‡ 37‡ 38‡	Constitution Alteration (Corporations) Constitution Alteration (Industrial Matters) Constitution Alteration (Nationalization of Monopolies) Constitution Alteration (Railway Disputes) Constitution Alteration (Senators' Term of Service) Constitution Alteration (Trade and Commerce) Constitution Alteration (Trusts)	248 249 250 251 252 254 255
	1916.	-
39 40 41 42 43 44	Constitution Alteration (Corporations) Constitution Alteration (Industrial Matters) Constitution Alteration (Nationalization of Monopoles) Constitution Alteration (Railway Disputes) Constitution Alteration (Trade and Commerce) Constitution Alteration (Trusts)	256 256 256 256 256 256 256
	1919.	
45† 46†	Constitution Alteration (Legislative Powers)	257 261
	1926.	
47† 48†	Constitution Alteration (Essential Services) Constitution Alteration (Industry and Commerce)	264 265
	1928.	
49†	Constitution Alteration (State Debts)	268
	1930.	
50 51 52	Constitution Alteration (Industrial Powers)	270 271 272

^{*} The consecutive numbers allotted in the first column of this Table to Constitution Alteration Bills, and appearing on the Bills themselves, are not in any way official, but have been given solely for the purposes of this volume.

Note.—In the second column of the foregoing table, words in round brackets form part of the actual short title of the Bill. Words in square brackets do not form part of the short title of the Bill, but are inserted merely for the purpose of indicating the subject-matter of the Bill.

On the 14th October, 1914, leave was given by the Senate to Senator Bakhap to introduce "A Bill for an Act to Amend the Commonwealth of Australia Constitution Act, 63 and 64 Victoria, Chapter 12," but the Bill in question was not introduced.



[†] Indicates that the Bill was passed by both Houses of the Parliament and submitted to the electors. For particulars of voting of the electors, see footnote to copy of Bill on page indicated in third column of above table.

[‡] Indicates that the Bill was passed by both Houses of the Parliament, but withdrawn from submission to the electors prior to the date fixed for the polling.

BILL NO. 1.*

A BILL

FOR

AN ACT

To amend Section One hundred and twenty-five of the Constitution of the Commonwealth.

BE it enacted by the King's Most Excellent Majesty, the Senate and the House of Representatives of the Commonwealth as follows:-

- 1. This Act may be cited as the Commonwealth Constitution Short title. Amendment Act 1903.
- 2. Section one hundred and twenty-five of the Constitution of the Amendment of 125. Commonwealth of Australia is hereby amended by striking out the words "and be distant not less than one hundred miles from Sydney." in the first paragraph of the section.

3. Section one hundred and twenty-five of the Constitution of the Further amendment of Commonwealth of Australia is hereby further amended by striking out 8 125 the second paragraph of the said section and substituting therefor the following words:—"Such portion of the territory to be acquired by or granted to the Commonwealth as shall consist of Crown Lands shall be so granted without any payment therefor."

lik

Introduced into the House of Representatives by a private member (Mr. V. L. Solomon) on 19th August, 1903. Second reading not moved. Lapsed at

*N.B.—The numbers given to this Bill and the other Bills in this Appendix are not in any way official, but have been given solely for the purposes of this

Short title

BILL NO. 2.

A BILL

FOR

AN ACT

To provide for an alteration of the Constitution.

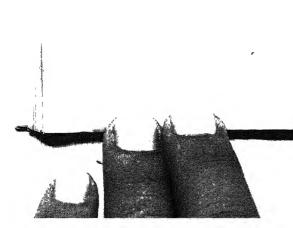
BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives, and subject to the provisions of section 128 of the Constitution.

1. This Act may be cited as the Constitution Alteration Act 1906.

2. Section fifty-one of the Constitution is altered by adding at the end thereof the following paragraph—

XL. The nationalization of monopolies with respect to production, manufacture, trade and commerce.

Introduced into the Senate by a private member (Senator G. F. Pearce, now Senator the Right Hon. Sir G. F. Pearce, K.C.V.O.) on 16th August, 1906. Second reading negatived by Senate on 4th October, 1906, the voting being equal.



BILL NO. 3.

[As introduced into the Senate.]

A BILL

FOR

AN ACT

To alter the provisions of the Constitution relating to the election of Senators.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as

1. This Act may be cited as Constitution Alteration (Senate Short title. Elections) 1907.

2. Section thirteen of the Constitution is altered-

Rotation of senators.

- (a) by omitting the words "the third year," and inserting in lieu thereof the words "three years";
- (b) by omitting the words "the sixth year," and inserting in lieu thereof the words "six years";
- (c) by omitting the words "in the year at the expiration of which," and inserting in lieu thereof "within one year before ":
- (d) by omitting the word "January" wherever it occurs, and inserting in lieu thereof the word "July."

3.—(1.) The terms of service of the senators whose places would, Extension of but for this Act, become vacant at the expiration of the year One of certain thousand nine hundred and nine are extended until the thirtieth day senators. of June One thousand nine hundred and ten.

Introduced into the Senate on 17th August, 1906; passed (with an amendment as indicated in the note on next page) on 19th September, 1906; introduced into House of Representatives on 20th September, 1906; passed, without amendment, on same day. Submitted to the electors on 12th December, 1906, and APPROVED. Voting at Referendum—

State.				In favour.	Not in favour.	Informal.
New South Wales Victoria Queensland South Australia Western Australia Tasmania	••		286,888 282,739 81,295 54,297 34 736 34,056	55,261 57,487 24,502 8,121 9,274 7,825	37,929 38,936 15,325 7,892 6,312 5,761	
Totals		••		774,011	162,470	112,155

For copy of Bill as submitted to the electors, see infra, p. 203.

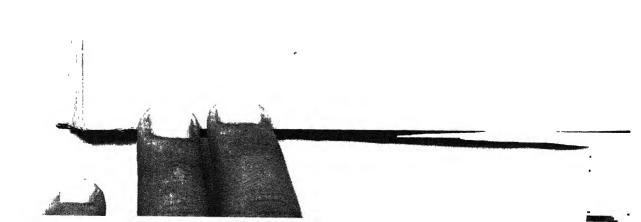
For further details of voting, see Commonwealth Parliamentary Papers, Session 1907, p. 487, et seq.
Bill assented to 3rd April, 1907. (Now Act No. 1, 1907—contained in this

volume, supra, p. 114).

(2.) The terms of service of the senators whose places would, but for this Act, become vacant at the expiration of the year One thousand nine hundred and twelve are extended until the thirtieth day of June One thousand nine hundred and thirteen.

Note.—By an amendment moved in the Senate on 5th September, 1906, the following clause was inserted —

Beginning of term of service of senators elected in 1906 not altered. 4. This Act shall not be taken to alter the time of beginning of the term of service of any senator elected in the year One thousand nine hundred and six.



BILL NO. 3.

[As submitted to the electors.]

A PROPOSED LAW

To alter the provisions of the Constitution relating to the election of Senators.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows :-

- 1. This Act may be cited as Constitution Alteration (Senate Short title. Elections) 1906.
 - 2. Section thirteen of the Constitution is altered—

Rotation of

- (a) by omitting the words "the third year," and inserting in
- (a) by omitting the words "three year," and inserting in lieu thereof the words "three years";
 (b) by omitting the words "the sixth year," and inserting in lieu thereof the words "six years";
 (c) by omitting the words "in the year at the expiration of which," and inserting in lieu thereof "within one year hereos". before":
- (d) by omitting the word "January" wherever it occurs, and inserting in lieu thereof the word "July."
- 3.—(1.) The terms of service of the senators whose places would, Extension of but for this Act, become vacant at the expiration of the year One of certain thousand nine hundred and nine are extended until the thirtieth day senators. of June One thousand nine hundred and ten.

- (2.) The terms of service of the senators whose places would, but for this Act, become vacant at the expiration of the year One thousand nine hundred and twelve are extended until the thirtieth day of June, One thousand nine hundred and thirteen.
- 4. This Act shall not be taken to alter the time of beginning of term of service of any senator elected in the year One thousand term of service of senators elected in 1906 the term of service of any senator elected in the year One thousand nine hundred and six.

For voting of the electors on this Bill, see supra, p. 201.

BILL NO. 4.

A BILL

FOR

AN ACT

To alter the Constitution with respect to the Appropriation of Special Duties of Customs and of Excise.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Special Duties) 1906.

Alteration of section 87.

- 2. Section eighty-seven of the Constitution is altered-
 - (a) by inserting after the word "Excise" the words "(other than special duties of Customs and of Excise)";
 - (b) by inserting after the word "balance" the words "of the revenue from those duties (other than special duties)";
 - (c) by adding at the end of the section the following para-
 - "A special duty of Customs or of Excise is a Customs or Excise duty upon goods of a description not liable to Customs or Excise duty on the first day of January One thousand nine hundred and seven, and imposed expressly for specific purposes."

Introduced into the House of Representatives on 30th August, 1906; passed, without amendment on 20th September, 1906; introduced into the Senate on 20th September, 1906. Amended by the Senate as follows.—

(1) By inserting clause la, as follows:-

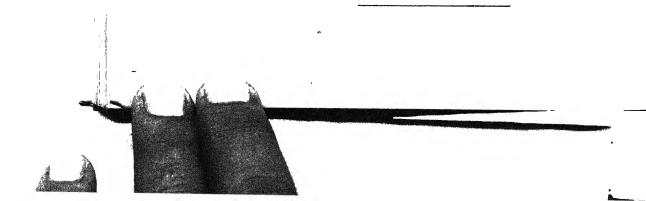
la. The Constitution is altered by the addition of the following section:-

"The Parliament of the Commonwealth may, for a special purpose, impose duties of Customs or Excise upon goods not liable to Customs or Excise duty on the first day of January One thousand nine hundred and seven, and may expend for such special purpose the whole of the amount so raised"

and

(2) By omitting clause 2.
On the motion in the Senate on 2nd October, 1906, for the third reading of the Bill, the voting was Ayes 18, Noes 13, but as that reading was not carried by an absolute majority of the Senate, the Bill was laid aside.

Alteration of Constitution.



BILL NO. 5.

A BILL

FOR

AN ACT

To alter the Provisions of the Constitution relating to the Public Debts of the States.

PE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as the Constitution Alteration (State short title. Debts) 1907.
 - 2. Section one hundred and five of the Constitution is altered—

Alteration of sec. 105.

- (a) by omitting the words "as existing at the establishment of the Commonwealth, or a proportion thereof according to the respective number of their people as shown by the latest statistics of the Commonwealth," and inserting in lieu thereof the words "or any part thereof"; and
- (b) by inserting, after the word "convert," the word "redeem"

Introduced into the House of Representatives on 5th September, 1906; passed, without amendment, on 20th September, 1906; introduced into the Senate on 20th September, 1906. Amended by the Senate as follows —

(1) By inserting clause la as follows :-

1A. The Constitution is altered by the addition of the following Alteration of section:—

"The powers of the Parliament relating to the public debts of the States shall extend to debts incurred since the establishment of the Commonwealth."

and

(2) By omitting clause 2.

The third reading was agreed to by the Senate on 2nd October, 1906.

Amendment No. 1 of the Senate agreed to by the House of Representatives on 4th October, 1906, with the following amendments:—"Omit 'since', insert 'at any time after'; at end of clause add 'and to any part of the public debts of the States'."

Amendment No. 2 of the Senate agreed to by the House of Representatives on 4th October, 1906.

First amendment of the House of Representatives to Senate Amendment No. 1 agreed to by the Committee of the Senate on 11th October, 1906.

Second amendment of the House of Representatives to Senate Amendment No. 1 not agreed to by Senate Committee.

On the motion in the Senate on 11th October, 1906, for the adoption of the Committee's report the voting was, Ayes 18, Noes 3, but, there not being an absolute majority, as required by section 128 of the Constitution, the President ruled that the Bill was not properly passed

BILL NO. 6.

A BILL

FOR

AN ACT

To provide for an alteration of the Constitution.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives, and subject to the provisions of section 128 of the Constitution.

Short title.

- 1. This Act may be cited as the Constitution Alteration Act 1909.
- 2. Section fifty-one of the Constitution is altered by adding at the end thereof the following paragraph:—

(xL.) The nationalization of trades or industries with respect to production, manufacture, trade and commerce, which in the opinion of the Parliament are monopolies detrimental to the public interest, within a state or among the States.

Introduced into the Senate by a private member (Senator G. F. Pearce, now Senator the Right Hon. Sir G. F. Pearce, K.C.V.O) on 20th June, 1909. Second reading moved on 29th July, 1909, but Bill not further proceeded with.

BILL NO. 7.

A BILL

ROB

AN ACT

To amend the provisions of Section Seventy-three of the Constitution.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:--

- 1. This Act may be cited as the Constitution Alteration (Creation Short title. of Court of Criminal Appeals) 1909.
- 2. The Constitution is altered by the addition to section seventy- Amendment of three of the following sub-section:-

s. 73 of Constitution

"A Court of Criminal Appeal shall be constituted with such powers and subject to such regulations as shall be prescribed by the Parliament of the Commonwealth providing for the hearing and determination of appeals from any Court of a State exercising criminal jurisdiction whereby a conviction or sentence is recorded on any indictment present ment information or inquisition in any case, whether involving fact or law or involving any questions necessary to be determined for the purpose of doing justice in any case."

Introduced into the Senate by a private member (Senator Col. J. C. Nield) on 29th September, 1909. Second reading moved on 11th November, 1909, but Bill not further proceeded with.

BILL NO. 8.

[As introduced into the House of Representatives.]

A BILL

FOR

AN ACT

To alter the provisions of the Constitution relating to Finance

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Finance) 1909.

Expiration of sec. 87.

- 2. The Constitution is altered by inserting, after section eighty-seven thereof, the following section:—
- "87a.—(1.) Notwithstanding anything in section eighty-seven of this Constitution, the Commonwealth may in the year beginning on the first day of July, One thousand nine hundred and nine, out of the net revenue of the Commonwealth from duties of customs and of excise, apply towards its expenditure for the service of that year any sum not exceeding Six hundred thousand pounds over and above one-fourth of the said net revenue.
- "(2.) From and after the thirtieth day of June, One thousand nine hundred and ten, section eighty-seven of this Constitution shall cease to have effect."
- 3. The* Constitution is altered by inserting, after section ninety-four thereof, the following sections:—

Expiration of book-keeping Clauses. "94A. From and after the thirtieth day of June, One thousand nine hundred and ten, sections ninety-three and ninety-four of this Constitution shall cease to have effect."

Per capita payment to States from 1st July, 1910. "94B. From and after the first day of July, One thousand nine hundred and ten, the Commonwealth shall pay to each State, by monthly instalments, or apply to the payment of interest on debts of the State taken over by the Commonwealth, an annual sum amounting to Twenty-five shillings per head of the number of the people of the State as ascertained according to the laws of the Commonwealth."

^{*} Note—By amendment moved in the House of Representatives on 3rd November, 1909, the word "The" was omitted. See Hansard, Vol. 53, pp. 5251, 5392.

"94c .- (1.) The Commonwealth shall, during the period of twenty- Payment to five years beginning on the first day of July. One thousand nine hundred Australia for 25 and ten, pay to the State of Western Australia, by monthly instalments, years from let an annual sum which in the first year shall be Two hundred and fifty thousand pounds, and in each subsequent year shall be progressively diminished by the sum of Ten thousand pounds.

- "(2.) One-half of the amount of the payments so made shall be debited to all the States (including the State of Western Australia) in proportion to the number of their people as ascertained according to the laws of the Commonwealth, and any sum so debited to a State may be deducted by the Commonwealth from any amounts payable to the State under the last preceding section or this section."
 - 4. Section one hundred and five of the Constitution is altered—

(a) by omitting the words—

Public debts of States

- "and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States;" and
- (b) by adding at the end thereof the following paragraph "The interest and charges payable by the Commonwealth, in respect of the debts of a State taken over, may be deducted and retained from any moneys payable to the State under this Constitution, and shall, to the extent to which they are not so deducted and retained, be paid by the State to the Commonwealth."

Introduced into the House of Representatives on 6th October, 1909; passed (with an amendment, as indicated in the note at foot of the previous page) on 12th November, 1909: introduced into the Senate on 12th November, 1909, passed, without amendment, on 1st December, 1909 Submitted to the electors on 13th April, 1910, and NOT APPROVED

Voting at Referendum-

State	In favor	ur Not in favour	Informal.
New South Wales Victoria Queensland South Australia Western Australia Tasmania	227,6; 200,1; 87,1; 49,3; 49,0; 32,16	35 242,119 30 72,516 52 51,250* 50 30,392	31,411 24,299 9,489 9,679 3,890 3,669
Totals	645,51	670,838	82,437

For copy of Bill as submitted to the electors, see infra, pp. 210-11.

For further details of voting, see Commonwealth Parliamentary Papers, Session 1910, Vol. II., p. 209 et seq.

BILL NO. 8.

As submitted to the electors.]

A PROPOSED LAW

To alter the provisions of the Constitution relating to Finance.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Finance) 1909.

Expiration sec. 87.

- 2. The Constitution is altered by inserting, after section eightyseven thereof, the following section:—
- "87a.—(1.) Notwithstanding anything in section eighty-seven of this Constitution, the Commonwealth may in the year beginning on the first day of July, One thousand nine hundred and nine, out of the net revenue of the Commonwealth from duties of customs and of excise, apply towards its expenditure for the service of that year any sum not exceeding Six hundred thousand pounds over and above one-fourth of the said net revenue.
- "(2.) From and after the thirtieth day of June, One thousand nine hundred and ten, section eighty-seven of this Constitution shall cease to have effect."
- 3. Constitution is altered by inserting, after section ninety-four thereof, the following sections:—

Expiration of book-keeping clauses "94A. From and after the thirtieth day of June, One thousand nine hundred and ten, sections ninety-three and ninety-four of this Constitution shall cease to have effect."

Per capita payment to States from 1st July, 1910. "94B. From and after the first day of July, One thousand nine hundred and ten, the Commonwealth shall pay to each State, by monthly instalments, or apply to the payment of interest on debts of the State taken over by the Commonwealth, an annual sum amounting to Twenty-five shillings per head of the number of the people of the State as ascertained according to the laws of the Commonwealth."

Payment to Western Australia for 25 years from 1st July, 1910. "94c.—(1.) The Commonwealth shall, during the period of twenty-five years beginning on the first day of July, One thousand nine hundred and ten, pay to the State of Western Australia, by monthly instalments, an annual sum which in the first year shall be Two hundred and fifty thousand pounds, and in each subsequent year shall be progressively diminished by the sum of Ten thousand pounds.

- "(2.) One-half of the amount of the payments so made shall be debited to all the States (including the State of Western Australia) in proportion to the number of their people as ascertained according to the laws of the Commonwealth, and any sum so debited to a State may be deducted by the Commonwealth from any amounts payable to the State under the last preceding section or this section."
 - 4. Section one hundred and five of the Constitution is altered—

Public debts of

- (a) by omitting the words—
 - "and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States;" and
- (b) by adding at the end thereof the following paragraph:—
 "The interest and charges payable by the Commonwealth, in respect of the debts of a State taken over, may be deducted and retained from any moneys payable to the State under this Constitution, and shall, to the extent to which they are not so deducted and retained, be paid by the State to the Commonwealth."

For voting of the electors on this Bill, see supra, p. 209.

BILL NO. 9.

A BILL

ror

AN ACT

To amend the Constitution so that the Parliament may be empowered to legislate for the Adjustment of Industrial Conditions in the various States.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Industrial Conditions) 1909.

Alteration of s. 51 of Constitution.

- 2. The Constitution is altered by inserting in section fifty-one after paragraph (xxxv.) the following paragraph (xxxva.):—
- "(xxxva.) The adjustment of industrial conditions in the various States."

Introduced into the Senate by a private member (Senator W. A. Trenwith) on 30th September, 1909. Second reading negatived by Senate on 4th November, 1909, the voting being equal.

BILL NO. 10.

A BILL

FOR

AN ACT

To alter the provisions of the Constitution relating to the Public Debts of the States.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as Constitution Alteration (State Debts) Short title. 1909.
- 2. Section one hundred and five of the Constitution is altered by Alteration of omitting the words "as existing at the establishment of the 105. Commonwealth."

Introduced into the House of Representatives on 8th September, 1909, passed, without amendment, on 11th November, 1909; introduced into the Senate on 12th to the electors on 13th April, 1910, and APPROVED November, 1909; passed, without amendment, on 1st December, 1909 Submitted Voting at Referendum—

	State		In favour.	Not in favour.	Informal.
New South Wales Victoria . Queensland . South Australia . Western Australia Tasmania	•	::	159,275 279,392 102,705 72,985 57,367 43,329	318,412 153,148 56,346 26,742 21,437 10,186	34,060 33,824 9,971 10,252 4,324 3,778
Totals		 	715,053	586,271	96,209

For further details of voting, see Commonwealth Parliamentary Papers, Session 1910, vol. II, p 225, et seq

Bill assented to 6th August, 1910. (Now Act No. 3, 1910—contained in this volume, supra, p. 115

BILL NO. 11.

[As introduced into the House of Representatives.]

A BILL

TOR

AN ACT

To alter Section Fifty-one of the Constitution.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as

Short title.

1. This Act may be cited as Constitution Alteration (Legislative Powers) 1910.

Par. (i.) Trade and Commerce.

2. Section fifty-one of the Constitution is altered by omitting from paragraph (i.) the words "with other countries, and among the States."

Par. (xx.) Corporations.

- 3. Section fifty-one of the Constitution is altered by omitting the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth," and inserting in lieu thereof the words-
 - "Corporations, including-

(a) the creation, dissolution, regulation, and control of corporations;

- (b) corporations formed under the law of a State (except any corporation formed solely for religious, charitable, scientific or artistic purposes, and not for the acquisition of gain by the corporation or its members), including their dissolution, regulation, and control; and
- (c) foreign corporations, including their regulation and control."

Par. (XXV.) Industrial

4. Section fifty-one of the Constitution is altered by omitting the words "Conciliation and Arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State", and inserting in lieu thereof the words "Industrial matters, including employment and the wages and conditions of employment and also including the prevention and settlement of industrial disputes."*

"Labour and employment, including-

(a) The wages and conditions of labour and employment in any trade industry or calling; and

(b) the prevention and settlement of industrial disputes, including disputes in relation to employment on or about railways the property of any State."

^{*} Note.—By amendment moved in the House of Representatives on 27th October, 1910, the words "Industrial matters, including employment and the wages and conditions of employment and also including the prevention and settlement of industrial disputes" were omitted, and the following words inserted:-

5. Section fifty-one of the Constitution is altered by adding at the Monopolies. end thereof the following paragraph:--

"(xl.) Combinations and monopolies in relation to the production, manufacture, or supply of goods or services."

Introduced into the House of Representatives on 29th September, 1910-passed (with an amendment as indicated in the note at foot of the previous page) on 28th October, 1910; introduced into the Senate on 28th October, 1910; passed, without amendment, on 16th November, 1910. Submitted to the electors and the April 1811 and the approximately submitted to the electors. on 26th April. 1911, and NOT APPROVED

Voting at Referendum-

	State.			In favour.	Not in favour.	Informal
New South Wales Victoria Queensland South Australia Western Australia Tasmania	• •	•	•	135,968 170 288 69 552 50,358 33,048 24,117	240,605 270,390 89,420 81,904 27,185 33,200	7,396 7,554 3,002 1,374 870 673
Totals	••	••	••	183,850	712,794	20,869

For copy of Bill as submitted to the electors, see unfra, p. 216.

For further details of voting, see Commonwealth Parliamentary Papers, Session 1911, vol. II., p. 163, et seq.

BILL NO. 11.

[As submitted to the electors.]

A PROPOSED LAW

To alter Section Fifty-one of the Constitution.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Legislative Powers) 1910.

Par. (i.) Trade and Commerce.

2. Section fifty-one of the Constitution is altered by omitting from paragraph (i.) the words "with other countries, and among the States."

Par. (xx.) Corporations.

- 3. Section fifty-one of the Constitution is altered by omitting the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth," and inserting in lieu thereof the words—
 - "Corporations, including-

(a) the creation, dissolution, regulation, and control of corporations;

(b) corporations formed under the law of a State (except any corporation formed solely for religious, charitable, scientific or artistic purposes, and not for the acquisition of gain by the corporation or its members), including their dissolution, regulation, and control; and

(c) foreign corporations, including their regulation and control."

Par. (xxxv) Industrial Matters. 4. Section fifty-one of the Constitution is altered by omitting the words "Conciliation and Arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State", and inserting in lieu thereof the words—

"Labour and employment, including-

- (a) the wages and conditions of labour and employment in any trade industry or calling; and
- (b) the prevention and settlement of industrial disputes, including disputes in relation to employment on or about railways the property of any State."

Trusts and

- 5. Section fifty-one of the Constitution is altered by adding at the end thereof the following paragraph:—
 - "(xl.) Combinations and monopolies in relation to the production, manufacture, or supply of goods or services."

For voting of the electors on this Bill, see supra, p. 215.



BILL NO. 12.

[As introduced into the House of Representatives.]

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industries and Businesses declared to be the subject of a Monopoly.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:--

- 1 This Act may be cited as Constitution Alteration (Monopolies) Shortitie. 1910.
- 2. The Constitution is altered by inserting, after section fifty-one thereof, the following section .-

"51A. When each House of the Parliament, in the same session, Power to make has by Resolution declared that the industry or business of producings or supplying any specified goods, or of supplying any specified services, monopolies. is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose' any property used in connexion with the industry or business

respect to

Introduced into the House of Representatives on 5th October, 1910, passed (with amendments as indicated in the note at toot of this page) on 3id November, 1910, introduced into the Senate on 3id November, 1910, passed, without amendment, on 16th November, 1910. Submitted to the electors on 26th April, 1911, and NOT APPROVED.

Voting at Referendum-

	State		In favour	Not in favour	Informal.
New South Wales Victoria Queensland South Australia Western Australia Tasmana		••	 138,237 171,453 70,250 50,835 33,592 24,292	238,177 268,743 88,472 81,479 26,561 32,960	7,618 8,041 3,200 1,344 898 753
Totals			488,668	736,392	21,854

For copy of Bill as submitted to the electors, see infra, p. 218

For further details of voting, see Commonwealth Parliamentary Papers, Session 1911, vol. II., p. 163, et seq.

^{*} Note — By amendments moved in the House of Representatives on 2nd November, 1910, the word "manufacturing" was inserted after the word "producing", and the words "on just terms" were inserted after the word purpose ".

BILL NO. 12.

[As submitted to ine electors.]

A PROPOSED LAW

To alter the Constitution by empowering the Parliament to make Laws with respect to Industries and Businesses declared to be the subject of a Monopoly.

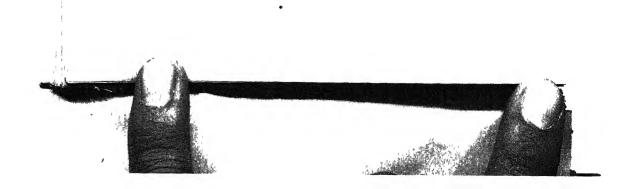
B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

- 1. This Act may be cited as Constitution Alteration (Monopolies) 1910.
- 2. The Constitution is altered by inserting, after section fifty-one thereof, the following section:—

Power to make laws with respect to monopolies. "51a. When each House of the Parliament, in the same session, has by Resolution declared that the industry or business of producing manufacturing or supplying any specified goods, or of supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business."

For voting of the electors on this Bill, see supra, p. 217



BILL NO. 13.

A BILL

FOR

AN ACT

To alter the provisions of the Constitution so as to provide for the Reconstruction of the States of the Commonwealth.

WHEREAS not less than sixty thousand residents of the Commonwealth have presented Petitions to Parliament praying that the question of the Reconstruction of the States of the Commonwealth on a broader and more National basis be referred to the Electors: Be it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth, with the approval of the Electors as required by the Constitution, as follows:—

1. This Act may be cited as Constitution Alteration (Unification) short title. 1910.

THE PARLIAMENT.

2. The Constitution is altered by repealing section seven and inserting the following section in lieu thereof:—

"7. The Senate shall be composed of Senators directly chosen The Senate. by the people in the following manner—

(i.) The Parliament shall divide the Commonwealth into sixteen Provinces having an equality of population with community of interests so far as may be practicable Provided, that all that part or portion of Australia lying to the northward of the twenty-sixth parallel of south latitude and lying to the westward of the one hundred and thirty-eighth meridian of east longitude shall not be included in the division of the Commonwealth into Provinces:

(ii.) A quota shall be obtained by dividing the population of the Commonwealth, as ascertained at the census of One thousand nine bundred and eleven, by sixteen and the difference between the population of any two Provinces shall not exceed one-fourth above or one-fourth below

the quota:

(iii.) Three Senators shall be chosen for each Province: (iv.) Senators shall be chosen for a term of four years:

(v.) In choosing Senators each Province shall vote as one electorate."

Introduced into the House of Representatives by a private member (Mr F. W. Bamford) on 13th September, 1910. Second reading not moved. Lapsed at Prorogation.

New Section.

- 3 the Constitution is altered by in enting the fellowing new section -
- "For the purposes of this Act, and and Particular otherwise provides, all that part or portion of Activata lying to the southward of the twenty-sixer parallel of south latitude and lying to the westward of the one hundred and twenty-much meridian of east anglitude and also the island of Tasmania shall each be deemed to be and to contain two Provinces."

Repeal

4. The Constitution is altered by repeating sections nine, ten, and eleven.

Alteration of Section 12. 5. Section twelve of the Constitution is altered by omitting the words "The Governor of a State may cause writs to be issued for elections of Senators for the State" and inserting the words "The Governor-General may cause writs to be issued for the elections of Senators."

Casual vacancy

- 6. The Constitution is altered by repealing section fifteen and inserting the following section in lieu thereof:—
- "15. If the place of a Senator becomes vacant before the expiration of his term of office, the Governor-General shall within a reasonable time notify the Administrator of the Province in the representation of which the vacancy has occurred. Immediately upon the receipt of such notification the Administrator shall communicate the same to the Provincial Council, whereupon the Provincial Council shall, by an absolute majority of its members, choose some person to fill the vacancy for the unexpired term. Should the Provincial Council not be in session when the vacancy occurs, the Administrator, with the advice of the Executive Committee, shall appoint some person to fill the vacancy until the expiration of seven days after the commencement of the next ensuing session of the Council, or until the election of a successor, whichever shall first happen."

Repeal of Section 21 New Section

- 7 The Constitution is altered by repealing section twenty-one
- 8. The Constitution is altered by inserting the following new section:—

Senators' privileges maintained.

House of Representatives. "Notwithstanding anything contained in the preceding sections any and every Senator elected at the elections of One thousand nine hundred and ten, shall, if not re-elected at the first elections held under this Act, receive all monetary allowances, travelling and other privileges to which he would be entitled if this Act had not been passed."

HOUSE OF REPRESENTATIVES

9. The Constitution is altered by repealing section twenty-four and inserting the following section in lieu thereof:—

"24. The House of Representatives shall be composed of Members directly chosen by the people in the following manner:—

(i.) The Parliament shall divide each Province into six electorates;

(ii.) a quota shall be obtained by dividing the population of each Province, as ascertained at the census of One thousand nine hundred and eleven, by six, and the difference between the population of any two electorates shall not exceed one-fifth above or one-fifth below the quota:

(ni.) one Member for the House of Representatives shall be chosen for each electorate;

(iv.) Members for the House of Representatives shall be chosen for a term of four years."

10. The Constitution is altered by repealing sections twenty-eight Repeal. and twenty-nine.

11. The Constitution is altered by omitting the word "four" of section twenty-eight and inserting the word "six" in lieu thereof; provided that the Leader of His Majesty's Opposition shall receive an additional allowance of four hundred pounds a year.

POWERS OF PARLIAMENT.

12. Section fifty-one of the Constitution is repealed and the Repeal of Section 51 following section inserted in heu thereof:-

"51. The Parliament shall, subject to this Constitution, make laws for the peace, order, and good government of the Commonwealth."

THE EXECUTIVE GOVERNMENT.

13. Section sixty-five of the Constitution is altered by omitting Alteration of Section 65. the word "seven" and inserting the word "ten" in lieu thereof.

14. Section sixty-six of the Constitution is altered by omitting the Alteration of Section 66. word "twelve" and inserting the word "sixteen" in lieu thereof.

THE PROVINCES—THE EXECUTIVE.

15. The Constitution is altered by inserting the following new sections:-

Constitution of Provincia

(1.) In each Province there shall be a chief executive officer, who shall be chosen by the people of the Province, and who shall be styled the Administrator of the Province, and in whose name all executive acts

relating to provincial affairs therein shall be done.

(2.) Each Administrator shall hold office for a term of four years, and shall not be removed before the expiration thereof except by the Governor-General in Council for cause assigned, which shall be communicated to both Houses of Parliament within fourteen days after the removal, or, if Parliament is not sitting, then within seven days after the commencement of the next ensuing session.

(3.) The Governor-General shall, whenever necessary, issue writs

for the election of Administrators.

(4.) Parliament shall make such regulations as may be necessary

to provide for the elections of Administrators.

(5.) Any person qualified to vote for a member of the House of Representatives shall be qualified to vote for the election of an Administrator.

(6.) The Provincial Council may from time to time appoint a deputy Administrator to execute the office and functions of the

Administrator during absence, illness, or other mability.

(7.) No person shall be eligible to hold the office of Administrator unless he shall have reached the full age of thirty-five years, and shall have been a resident of the Commonwealth for five years next preceding the date of his election.

(8.) Until Parliament shall otherwise provide, the salaries of Administrators shall be One thousand pounds a year, and shall not

be reduced during their respective terms of office.

PROVINCIAL COUNCILS.

Provincial Councils how chosen

- 16.—(1.) In each Province there shall be a Provincial Council, Members of the Provincial Councils shall be directly chosen by the people in the following manner:—
 - (i.) Until Parliament otherwise provides each Province shall be divided into twenty-four electorates:
 - (ii.) A quota shall be ascertained by dividing the population of the Province, as disclosed at the census of One thousand nine hundred and eleven, by twenty-four, and the difference between any two electorates shall not exceed one-sixth above or one-sixth below the quota:
 - (iii.) One member for the Provincial Council shall be chosen for each electorate.
- (2.) Each Provincial Council shall continue for a term of three years and shall not be subject to dissolution except by effluxion of time.
- (3.) Any person qualified to vote for the election of a Provincial Councillor shall be qualified to be a Provincial Councillor.
- (4.) Any person qualified to vote for the election of a member of the House of Representatives shall be qualified to vote for the election of a Provincial Councillor.

Issue of writs for elections of Provincial Councillors.

- 17. The Governor-General shall cause writs to be issued for the first elections of Provincial Councillors, held under this Act, and all provisions made under this or other Acts of the Commonwealth for the elections of members for the House of Representatives, shall, mutatis mutandis be applicable to such elections.
- 18. Subsequent to the first elections held under this Act, the Administrator shall issue writs for the elections of Provincial Councillors.

Fixing time for holding sessions.

19. The Administrator of each Province shall, by proclamation, fix such time for holding the session of the Provincial Council as may be recommended by the Executive Committee, and may from time to time prorogue such Council: Provided that there shall be a session of every Provincial Council once at least every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

Provincial Council to elect Chairman. 20. The Provincial Council shall elect from its members a Chairman who shall preside at all meetings of the Council: Provided that the Council may appoint a deputy Chairman, who shall preside during any absence of the Chairman.

Councils to make rules for conduct of business. 21. The Council shall make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General in Council and the said rules shall have full force and effect unless and until the Governor-General in Council shall express his disapproval thereof in writing to the Administrator.

Freedom of speech allowed at Council meetings. 22. There shall be freedom of speech in the Provincial Council and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such Council.



23. If the place of a Provincial Councillor become vacant before the expiration of his term of office the Provincial Council shall, by an absolute majority of its members, choose some person to fill the vacancy, and the person so chosen shall hold office as a Provincial Councillor until the next ensuing election of Provincial Councillors.

THE PROVINCIAL EXECUTIVE COMMITTEE.

24.—(1.) Each Provincial Council shall, at its first meeting after Executive Committees. any general election, elect from its members four persons, who, with the Chairman, shall form an Executive Committee for the Province. The members of the Executive Committee shall hold office until the election of their successors in the same way.

- (2.) If any casual vacancy arise in the Executive Committee the Provincial Council shall elect some person from amongst its members to fill the vacancy.
- 25.—(1.) Each Provincial Council shall, subject to the approval Allowances to of the Governor-General in Council, prescribe such monetary allowances Councillors. as shall be paid to-

- (i.) Members of the Provincial Councils:
- (iii.) Chairmen of Provincial Councils: (iii.) Members of the Executive Committees of Provincial Councils.
- (2.) All allowances paid to Provincial Councillors, Chairmen of Provincial Councils, or members of the Executive Committees of Provincial Councils shall commence on the date of their election to the respective offices.
- 26. Questions arising in the Executive Committee shall be deter- Questions, he mined by a majority of votes of the members present, and, in case determined. of an equality of votes, the Chairman shall have also a casting vote. The Executive Committee shall, subject to the approval of the Governor-General in Council, make rules for the conduct of its proceedings.

Questions, how

27. The Executive Committee shall, on behalf of the Provincial Administration Council, carry on the administration of Provincial affairs. Until the Committee. first election of members of the Executive Committee such administration shall be carried on by the Administrator.

28. Subject to the provisions of this Act, all powers, authorities, Powers vested and functions which at the coming into force of this Act are in any of the States vested in or exercised by the Governor or the Governor in Council, or any Minister of a State, shall, after the coming into force of this Act, be vested in the Executive of the Province so far as such powers, authorities, and functions relate to matters in respect of which the Provincial Council is competent to make such ordinances.

POWERS OF PROVINCIAL COUNCILS.

- 29. Subject to the provisions of this Act and the assent of the Governor-General in Council as hereinafter provided, the Provincial Council may make ordinances in relation to matters coming within the following classes of subjects (that is to say)-
 - (i.) Direct taxation within the Province in order to raise revenue for provincial purposes:

- (ii.) The borrowing of money on the whole credit of the Province. Provided that no moreys shall be borrowed other than from the Governor-General in Council:
- (iii.) Local works and under akings other than railways and harbors, and such other works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with the Provincial Council or otherwise:
- (iv.) Roads, ferries, and bridges, other than bridges connecting two Provinces: Provided that when it is proposed to erect a bridge connecting two Provinces the Governor-General in Council may allow the Provincial Councils of the Provinces concerned to make mutual arrangements for the erection of any such bridge for the capital outlay upon which Parliament shall be responsible:

(v.) Water conservation and irrigation to the extent and subject to the conditions defined by Parliament:

(vi.) Agriculture and forestry.

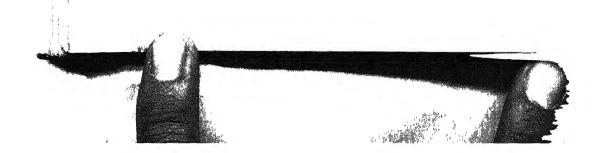
- (vii.) The establishment and management of hospitals and charitable institutions:
- (viii.) Municipal institutions, divisional boards and councils, shire councils, and other local institutions of a like
- (ix.) Hotel, auctioneer, hawker, and other licences other than licences to professional persons:

(x.) Markets and pounds:

- (xi.) Fish and game preservation; and the protection of native birds and animals:
- (xii.) The incorporation of companies the operations of which do not extend beyond the Province:
- (xiii.) Provincial lands, to the extent and subject to the conditions defined by Parliament:
- (xiv.) Mines and minerals other than coal mines and coal:
- (xv.) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section:
- (xvi.) Generally all matters which in the opinion of the Governor-General in Council are of a merely local or provincial nature:
- (xvii.) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the Provincial Council.

Ordinances must be in harmony with Acts of Parliament. 30. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of Parliament

Provincial Council may request Parliament make laws. 31. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.



32. A Provincial fund shall be formed in every Province, into Provincial fund which shall be paid all revenues raised by or accruing to the Provincial Council and all moneys paid over by the Governor-General in Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General in Council for particular purposes, then for such purposes. A vote or resolution for the appropriation of money shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Administrator to the Council.

33. When a proposed ordinance has been passed by a Provincial Ordinances Council it shall be presented by the Administrator to the Governor-General in Council for his assent. The Governor-General in Council shall declare within two months from the presentation to him of the Council proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General in Council he makes known by proclamation that it has received his assent.

34. An ordinance assented to by the Governor-General in Council Ordinances have and promulgated by the Administrator shall, subject to the provisions of this Act, have the force of law within the Province.

force of law within

35 .- (1) In each Province there shall be an auditor of accounts Audit of Provincial to be appointed by the Governor-General in Council.

- (2.) No such auditor shall be removed from office except by the Governor-General in Council for cause assigned, which shall be communicated to Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing sitting.
- (3.) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General in Council, with the approval of Parliament, shall determine.
- (4.) Each such auditor shall examine and audit the accounts of the Province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General in Council and approved by Parliament, and no warrant signed by the Administrator authorizing the issue of money shall have effect unless countersigned by such auditor.

THE JUDICATURE.

36. The Constitution is altered by repealing sections seventy-four, Reneal of seventy-six. seventy-seven, seventy-eight, and seventy-nine.

Sections 74, 76 77, 78, and 79.

FINANCE AND TRADE.

37. The Constitution is altered by repealing section eighty-one and Section 81 and insertion of inserting the following section in lieu thereof:-

"81.—(1.) All revenues from whatever source arising over which the several States have, at the passing of this Act, power of appropriation and control, shall vest in the Governor-General in Council.

(2.) There shall also be formed a Consolidated Revenue Fund into which shall be paid all other revenues raised or received by the Governor-General in Council, and such fund shall be appropriated for the purposes of the Commonwealth, subject to the charges imposed under this Act."

Repeal of Sections 94 to 98 inclusive. 38. The Constitution is altered by repealing sections ninety-four to ninety-eight inclusive.

Repeal of Section 102 39. The Constitution is altered by repealing section one hundred and two.

New Section. Finance Committee

- 40. The Constitution is altered by inserting the following new section:—
- "(1.) Upon the passing of this Act a Committee, to be called the Finance Committee, shall be appointed by the Governor-General in Council, and shall consist of the Auditor-General, the principal Secretary to the Treasury, the Comptroller of Customs, the Secretary to the Post Office, and three other persons.
- (2.) The functions of the Finance Committee shall be to examine into all matters necessary to enable it to report and recommend to Parliament what proportion, if any, of the Consolidated Revenue should be paid over to the several Provinces.
- (3.) Such proportion, if any, of the revenues raised from customs, excise, or other duties as the Finance Committee recommend shall be paid to the several Provinces shall be paid on a per capita basis.
- (4.) The Finance Committee shall report within a period of twelve months from the date of its being formally constituted.
- (5.) Pending the completion of the inquiry of the Finance Committee, and until Parliament otherwise provides, there shall be paid out of the Consolidated Revenue Fund to the Administrator of each Province such sums as the Governor-General in Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively."

Interest on public debts.

41. The annual interest of the public debts of the States, and any sinking funds constituted by law, shall, upon this Act coming into force, form a first charge upon the Consolidated Revenue Fund.

All moneys and securities to pass over to Commonwealth.

42. All stocks, cash, bankers' balances, and securities for money belonging to each of the States, shall, upon this Act coming into force, become the property of the Commonwealth: Provided that the balances of any funds raised or appropriated for any special purpose in any of the States shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

Crown lands works and rights become property of Commonwealth. 43. Crown lands, public works, and all property throughout the Commonwealth, movable or immovable, and all rights of whatever description belonging to the several States, shall, upon this Act coming into force, vest in the Governor-General in Council subject to any debt or liability specifically charged thereon.

Commonwealth to take over al! debts and habilities. 44. The Commonwealth shall assume all debts and liabilities of the States existing at such time as this Act shall come into force, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities

were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, or interest, sinking fund, and other charges conferred on the creditors of any of the States, and may, subject to such conditions and rights, convert, renew. or consolidate such debts

THE STATES.

45. Section one hundred and six of the Constitution is altered by Alteration of omitting the words "in accordance with the Constitution of the States" Section 106 and inserting in lieu thereof the words "by the Parliament of the Commonwealth."

46. Section one hundred and seven of the Constitution is altered Alteration by adding at the end thereof the words "until altered by the Parliament of the Commonwoalth."

47. The Constitution is altered by repealing sections one hundred Repeal. and eleven, one hundred and thirteen, and one hundred and twenty.

NEW STATES.

48. The Constitution is altered by repealing section one hundred Repeal. and twenty-one.

49. The Constitution is altered by repealing section one hundred To provide for and twenty-two and inserting the following section in lieu thereof:-

territory not

"The Parliament may make laws for the government of any included territory within the Commonwealth which is specifically excluded from that area within which Provinces shall be established—to wit—All that part or portion of Australia lying to the northward of the twenty-sixth parallel of South latitude, and lying to the westward of the one hundred and thirty-eighth meridian of East longitude. Parliament may allow the representation of such territory in either House of the Parliament to such extent and on such terms as it may think fit."

50. The Constitution is altered by repealing sections one hundred Repeal. and twenty-three and one hundred and twenty-four.

MISCELLANEOUS.

51. The Constitution is altered by repealing section one hundred and twenty-five and inserting the following section in lieu thereof:-

"125.—(1.) The seat of Government shall be determined by the Federal Capital Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth.

- (2.) Such territory shall contain an area of not less than one thousand square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.
- (3.) The Parliament shall sit at Melbourne until it meet at the seat of Government."
- 52. The Constitution is altered by inserting the following new New section section :--
- "The Parliament shall make such laws or regulations as it may deem necessary for the management and control of railways, ports and harbors."

New section

53. Until Parliament otherwise provides, all officers of the Public Service of the States shall, upon the Act coming into force, become officers of the Commonwealth.

ALTERATION OF CONSTITUTION.

Alteration of Section 128.

- 54. Section one hundred and twenty-eight of the Constitution is altered by omitting the three last paragraphs thereof and inserting in lieu thereof the following paragraphs:—
 - "When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes.
 - And if a majority of the electors voting approve of the proposed law it shall be presented to the Governor-General for the King's assent."

The word "State" to be omitted

55. The Constitution is altered by omitting the word "State" wherever such omission may be necessary and inserting the word "Province" in lieu thereof.

Act to be brought into force 56. This Act shall be brought into force, by proclamation issued by the Governor-General, not later than the first day of March One thousand nine hundred and thirteen.

BILL NO. 14.

A BILL

FOR

AN ACT

To alter Paragraph (xx.) of Section Fifty-one of the Constitution.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as Constitution Alteration (Corporations) Short title. 1912.
- 2. Section fifty-one of the Constitution is altered by omitting from corporations, paragraph (xx.) the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth," and inserting in their stead the words—

"Corporations, including-

- (a) the creation, dissolution, regulation, and control of corporations;
- (b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and
- (c) foreign corporations, including their regulation and control."

Introduced into the House of Representatives on 13th November, 1912; passed, without amendment, on 6th December, 1912; introduced into the Senate on 10th December, 1912; passed, without amendment, on 18th December, 1912. Submitted to the electors on 31st May, 1913, and NOT APPROVED.

Voting at Referendum-

S	itate.		In favour	Not in favour	Informal
New South Wales Victoria Queensland South Australia Western Australia Tasmania	 	: : :	 317,668 298,479 146,936 96,309 66,595 34,724	361,255 308,915 123,632 91,273 59,445 42,304	37,676 19,139 9,736 7,564 5,776 3,244
Totals	• •	••	 960,711	986,824	83,235

For further details of voting, see Commonwealth Parliamentary Papers, Session 1913, vol. II., p. 115, et seq.

BILL NO. 15.

[As introduced arto the House of Representatives.]

A BILL

AN ACT

To alter Paragraph (xxxv.) of Section Fifty-one of the Constitution.

Preamble.

E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia. with the approval of the electors, as required by the Constitution, as follows:-

Short title.

1. This Act may be cited as Constitution Alteration (Industrial Matters) 1912.

Industrial matters

2. Section fifty-one of the Constitution is altered by omitting from paragraph (xxxv.) the words "Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State," and inserting in their stead the words-

"Labour, employment, and unemployment, including-

(a) the terms and conditions of labour and employment in any

trade, industry,* or calling;
(b) the rights and obligations of employers and employees;*

(c) the maintenance of industrial peace; and

(d) the settlement of industrial disputes."

Introduced into the House of Repre-entatives on 13th November, 1912; passed (with amendments as indicated in the note at foot of this page) on 6th December, 1912; introduced into the Senate on 10th December, 1912; passed, without amendment, on 18th December, 1912 Submitted to the electors on 31st May, 1913, and NOT APPROVED.

Voting at Referendum-

State			In favour.	Not in favour.	Informal.	
New South Wales Victoria . Queensland South Australia . Western Australia Tasmania .	·	: :	::	318,622 297,892 147,171 96,626 66,451 31,839	361,044 309,804 123,554 91,361 59,612 42,236	36,933 18,837 9,579 7,259 5,753 3,197
Totals				961,601	987,611	81,558

For copy of Bill as submitted to the electors, see infra, p. 231. For further details of voting, see Commonwealth Parliamentary Papers, Session 1913, vol. II., p. 115, et seq.

* NOTE.—The following amendments were made to this Bill in the House of Representatives on 6th December, 1912:-

(a) After "Labour," in the fifth line of clause 2, insert "and";
(b) after "industry," in paragraph (a) of clause 2, insert "occupation,"; and

(c) after paragraph (b) i clause 2 insert the following new paragraph:-"(ba) strikes and ...kouts;".

BILL NO. 15.

[4s submitted to the electors.]

A PROPOSED LAW

To alter Paragraph (xxxv.) of Section Fifty-one of the Constitution.

B E it enacted by the King's Most Excellent Majesty, the Senate, and Presentle. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows :--

- 1. This Act may be cited as Constitution Alteration (Industrial Short title. Matters) 1912.
- 2. Section fifty-one of the Constitution is altered by omitting from Industrial matters paragraph (xxxv.) the words "Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State," and inserting in their stead the words-

- "Labour, and employment, and unemployment, including-
 - (a) the terms and conditions of labour and employment in any trade, industry, occupation, or calling;
 - (b) the rights and obligations of employers and employees;
 - (c) strikes and lockouts;
 - (d) the maintenance of industrial peace; and
 - (e) the settlement of industrial disputes."

For voting of the electors on this Bill, see supra, p. 230.

BILL NO. 16.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industries and Businesses declared to be the subject of a Monopoly.

Preamble.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Nationalization of Monopolies) 1912.

Nationalization of monopolies.

- 2. The Constitution is altered by inserting, after section fifty-one thereof, the following section:—
- "51a.—(1.) When each House of the Parliament, in the same session, has by Resolution, passed by an absolute majority of its members, declared that the industry or business of producing, manufacturing, or supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business.
- (2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State."

Introduced into the House of Representatives on 13th November, 1912; pased, without amendment, on 10th December, 1912; introduced into the Senate on 10th December. 1912; passed, without amendment, on 18th December, 1912. Submitted to the electors on 31st May, 1913, and NOT APPROVED.

Voting at Referendum-

	State.		In favour.	Not in favour.	Informal
New South Wales rictoria Queensland South Australia Western Australia Casmania			301,192 287,379 139,019 91,411 64,988 33,176	341,724 298,326 117,609 86,915 57,184 40,189	73,683 40,828 23,676 16,920 9,644 6,907
Totals			917,165	941,947	171,658

For further details of voting, see Commonwealth Parliamentary Papers, Session 1913, vol. 4I., p. 115, et seq.



BILL NO. 17.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industrial Disputes in relation to Employment in State Railway Services.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution as follows:—

- 1. This Act may be cited as Constitution Alteration (Railway short title. Disputes) 1912.
- 2. Section fifty-one of the Constitution is altered by inserting after railway paragraph (xxxv.) the following paragraph:—

"(xxxv.a.) Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State."

Introduced into the House of Representatives on 13th November, 1912, passed, without amendment, on 6th December, 1912; introduced into the Senate on 10th December, 1912, passed, without amendment, on 18th December, 1912 Submitted to the electors on 31st May, 1913, and NOT APPROVED

Voting at Referendum-

	State			In favour	Not in favour	Informal
New South Wales Victoria Queensland . South Australia . Western Australia .	· ·· :	:. · :		316,928 296,255 146,521 96,072 65,957 34 625	361,743 310,921 123.859 91,202 59,965 42,296	37 928 19,357 9,924 7,912 5,894 3,351
Totals				956,358	990,046	84,366

For further details of voting, see Commonwealth Parliamentary Papers, Session 1913, Vol. II., p. 115, et seq.

BILL NO. 18.

A BILL

FOR

AN ACT

To alter Paragraph (i.) of Section Fifty-one of the Constitution.

Preamble.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia with the approval of the electors, as required by the Constitution. as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Trade and Commerce) 1912.

Trade and Commerce

- 2. Section fifty-one of the Constitution is altered-
 - (a) by omitting from paragraph (i.) the words "with other countries and among the States"; and
 - (b) by adding at the end of paragraph (i) the words "but not including trade and commerce upon railways the property of a State except so far as it is trade and commerce with other countries or among the States."

Introduced into the House of Representatives on 12th November, 1912; passed, without amendment, on 3rd December, 1912; introduced into the Senate on 4th December, 1912; passed, without amendment, on 18th December, 1912. Submitted to the electors on 31st May. 1913, and NOT APPROVED.

Voting at Referendum-

	State.		In favour.	Not in favour	Informal.
New South Wales Victoria Queensland South Australia Western Australia Tasmania	::		317,848 297,290 146,187 96,085 66,349 34,660	359,418 307,975 122,813 91,144 59,181 42,084	39,333 21,268 11,304 8,017 6,286 3,528
Totals	••	••	 958,419	982,615	89,736

For further details of voting, see Commonwealth Parliamentary Papers, Session 1913, Vol. II., p. 115, et seq.



BILL NO. 19.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Trusts, Combinations, and Monopolies.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:-

- 1. This Act may be cited as Constitution Alteration (Trusts) 1912. Short title.
- 2. Section fifty-one of the Constitution is altered by adding at the end thereof the following paragraph:-

Trusts, combinations, and monopolies.

(xl.) Trusts, combinations, and monopolies in relation to the production, manufacture, or supply of goods, or the supply of services."

Introduced into the House of Representatives on 13th November, 1912; passed, without amendment, on 6th December, 1912; introduced into the Senate on 10th December, 1912; passed, without amendment, on 18th December, 1912 Submitted to the electors on 31st May, 1913, and NOT APPROVED

Voting at Referendum-

Si	tate.			In favour	Not in favour	Informal.
New South Wales Victoria Queensland South Australia Western Australia Tasmania		::	::	319,150 301,729 147,871 96,400 67,342 34,839	358,155 305,268 122,088 90,185 58,312 41,935	39,294 19,536 10,845 8,661 5,162 3,498
Totals				967,331	975,943	87,496

For further details of voting see Commonwealth Parliamentary Papers, Session 1913, Vol. II., p. 115, et seq.

BILL NO. 20.

A BILL

FOR

AN ACT

To alter Paragraph (xx.) of Section Fifty-one of the Constitution.

Preamble

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Corporations) 1913.

Corporations.

- 2. Section fifty-one of the Constitution is altered by omitting from paragraph (xx.) the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth," and inserting in their stead the words—
 - "Corporations, including -
 - (a) the creation, dissolution, regulation, and control of corporations;
 - (b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and
 - (c) foreign corporations, including their regulation and control."

Introduced into the Senate by a private member (the Leader of the Opposition) on 10th September, 1913; passed, without amendment, on 9th December, 1913; introduced into the House of Representatives on 9th December, 1913 Second reading not moved. Lapsed at Prorogation

BILL NO. 21.

A BILL

FOI.

AN ACT

To alter Paragraph (xxxv.) of Section Fifty-one of the Constitution.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble the House of Representatives of the Co. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:-

- 1. This Act may be ented as Constitution Alleration (Industrial Short title. Matters) 1913.
- 2. Section fifty-one of the Constitution is altered by omitting from Industrial paragraph (xxxv.) the words "Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State," and inserting in their stead the words—

"Labour, and employment, and unemployment, including-

- (a) the terms and conditions of labour and employment in any trade, industry, occupation, or calling;
- (b) the rights and obligations of employers and employees;
- (c) strikes and lockouts;
- (d) the maintenance of industrial peace; and
- (e) the settlement of industrial disputes."

Introduced into the Senate by a private member (the Leader of the Opposition) on 10th September, 1913, passed, without amendment, on 9th December, 1913; introduced into the House of Representatives on 9th December, 1913 Second reading not moved Lapsed at prorogation.

BILL NO. 22.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industries and Businesses declared to be the subject of a Monopoly.

Preamble.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

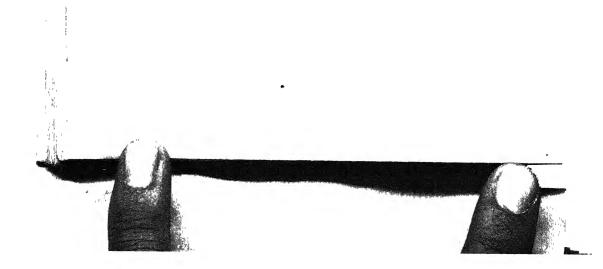
Short sitle.

1. This Act may be cited as Constitution Alteration (Nationalization of Monopolies) 1913

Nationalization of monopolies.

- 2. The Constitution is altered by inserting, after section fifty-one thereof, the following section:—
- "51a.—(1.) When each House of the Parliament, in the same session, has by Resolution, passed by an absolute majority of its members, declared that the industry or business of producing, manufacturing, or supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business.
- (2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State."

Introduced into the Senate by a private member (the Leader of the Opposition) on 10th September, 1913; passed, without amendment, on 9th December, 1913; introduced into the House of Representatives on 9th December, 1913. Second reading not moved. Lapsed at Prorogation.



BILL NO. 23.

A BILL

FOR

AN ACT

- To alter the Constitution by empowering the Parliament to make Laws with respect to Industrial Disputes in relation to Employment in State Railway Services.
- E it enacted by the King's Most Excellent Majesty, the Senate, Preamble and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—
- 1. This Act may be cited as Constitution Alteration (Railway short title. Disputes) 1913.
- 2. Section fifty-one of the Constitution is altered by inserting after Railway paragraph (xxxv.) the following paragraph:—
 - "(xxxv.a.) Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State."

Introduced into the Senate by a private member (the Leader of the Opposition) on 10th September, 1913; passed, without amendment, on 9th December, 1913; introduced into the House of Representatives on 9th December, 1913. Second reading not moved. Lapsed at Prorogation

BILL NO. 24.

A BILL

FOR

AN ACT

To alter Paragraph (i.) of Section Fifty-one of the Constitution.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Trade and Commerce) 1913.

Trade and Commerce.

- 2. Section fifty-one of the Constitution is altered-
 - (a) by omitting from paragraph (i.) the words "with other countries and among the States"; and
 - (b) by adding at the end of paragraph (i.) the words "but not including trade and commerce upon railways the property of a State except so far as it is trade and commerce with other countries or among the States."

Introduced into the Senate by a private member (the Leader of the Opposition) on 10th September, 1913; passed, without amendment, on 9th December, 1913; introduced into the House of Representatives on 9th December, 1913. Second reading not moved Lapsed at Prorogation.

BILL NO. 25.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Trusts, Combinations, and Monopolies.

BE it enacted by the King's Most Excellent Majesty, the Senate, Presmble. D and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as Constitution Alteration (Trusts) 1913. Short title.
- 2. Section fifty-one of the Constitution is altered by adding at the end thereof the following paragraph:-
 - "(xl.) Trusts, combinations, and monopolies in relation to the trusts, combinations, production, manufacture, or supply of goods, or the supply and monopolies. of services."

Introduced into the Senate by a private member (the Leader of the Opposition) on 10th September, 1913; passed, without amendment, on 9th December, 1913; introduced into the House of Representatives on 9th December, 1913. Second reading not moved. Lapsed at Prorogation.

BILL NO. 26.

A BILL

FOR

AN ACT

To alter Paragraph (xx.) of Section Fifty-one of the Constitution.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Corporations) 1913.

Corporations.

2. Section fifty-one of the Constitution is altered by omitting from paragraph (xx.) the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth," and inserting in their stead the words—

"Corporations, including-

- (a) the creation, dissolution, regulation, and control of corporations;
- (b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and
- (c) foreign corporations, including their regulation and control."

Introduced into the Senate by a private member (the Leader of the Opposition) on 16th April, 1914; passed, without amendment, on 11th June, 1914; introduced into the House of Representatives on 11th June, 1914. Second reading not moved. Lapsed at Prorogation. Not submitted to the clectors Senate resolved, on 18th June, 1914, that an Address be presented to His Excellency the Governor-General, requesting that His Excellency be pleased to submit the proposed law (also the proposed laws contained in Bills Nos. 27, 28, 29, 30 and 31) to the electors. Address presented but request refused. Refusal reported to Senate on 24th June, 1914.

This Bill is identical with Bill No. 20, supra.

BILL NO. 27.

A BILL

FOR

AN ACT

To alter Paragraph (xxxv.) of Section Fifty-one of the Constitution.

BE it enacted by the King's Most Excellent Majesty, the Senate, Preamble. and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:

1. This Act may be cited as Constitution Alteration (Industrial Short title. Matters) 1913.

2. Section fifty-one of the Constitution is altered by omitting from Industrial matters. paragraph (xxxv.) the words "Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State," and inserting in their stead the words-

"Labour, and employment, and unemployment, including-

- (a) the terms and conditions of labour and employment in any trade, industry, occupation, or calling;
- (b) the rights and obligations of employers and employees;
- (c) strikes and lockouts;
- (d) the maintenance of industrial peace; and
- (e) the settlement of industrial disputes."

The footnote as to the procedure on Bill No. 26 (supra) applies equally to this Bill.

This Bill is identical with Bill No. 21, supra.

BILL NO. 28.

A BILL

FOB

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industries and Businesses declared to be the subject of a Monopoly.

Preamble.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

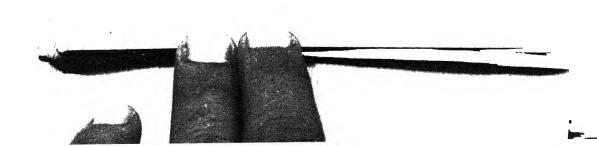
1. This Act may be cited as Constitution Alteration (Nationalization of Monopolies) 1913.

Nationalization of monopolies.

- 2. The Constitution is altered by inserting, after section fifty-one thereof, the following section:—
- "51a.—(1.) When each House of the Parliament, in the same session, has by Resolution, passed by an absolute majority of its members, declared that the industry or business of producing, manufacturing, or supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business.
- (2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State."

The footnote as to the procedure on Bill No. 26 (supra) applies equally to this Bill.

This Bill is identical with Bill No. 22, supra.



BILL NO. 29.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industrial Disputes in relation to Employment in State Railway Services.

E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as Constitution Alteration (Railway Short title. Disputes) 1913.
- 2. Section fifty-one of the Constitution is altered by inserting after Rallway paragraph (xxxv.) the following paragraph:—

 "(xxxv.A.) Conciliation and arbitration for the prevention and

"(xxxv.a.) Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State."

The footnote as to the procedure on Bill No. 26 (supra) applies equally to this Bill.

This Bill is identical with Bill No. 23, supra.

BILL NO. 30.

A BILL

FOR

AN ACT

To alter Paragraph (i.) of Section Fifty-one of the Constitution.

Preamble.

B it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Trade and Commerce) 1913.

Trade and

- 2. Section fifty-one of the Constitution is altered-
 - (a) by omitting from paragraph (i.) the words "with other countries and among the States"; and
 - (b) by adding at the end of paragraph (i.) the words "but not including trade and commerce upon railways the property of a State except so far as it is trade and commerce with other countries or among the States."

The footnote as to the procedure on Bill No. 26 (supra) applies equally to this Bill,

This Bill is identical with Bill No. 24, supra



BILL NO. 31.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Trusts, Combinations, and Monopolies.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:-

- 1. This Act may be cited as Constitution Alteration (Trusts) 1913. Short title.
- 2. Section fifty-one of the Constitution is altered by adding at the Trusts, combinations, and monopolies. end thereof the following paragraph:-
 - "(xl.) Trusts, combinations, and monopolies in relation to the production, manufacture, or supply of goods, or the supply of services."

The footnote as to the procedure on Bill No. 26 (supra) applies equally to this Bill.

This Bill is identical with Bill No. 25, supra.

BILL NO. 32.

A BILL

FOR

AN ACT

To alter Paragraph (xx.) of Section Fifty-one of the Constitution.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

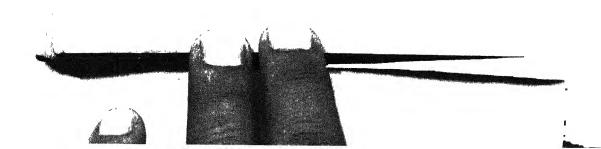
Short title.

1. This Act may be cited as Constitution Alteration (Corporations) 1915.

Corporations.

- 2. Section fifty-one of the Constitution is altered by omitting from paragraph (xx.) the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth," and inserting in their stead the words—
 - " Corporations, including-
 - (a) the creation, dissolution, regulation, and control of corporations;
 - (b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and
 - (c) foreign corporations, including their regulation and control."

Introduced into the House of Representatives on 18th June, 1915; passed, without amendment, on 2nd July, 1915; introduced into the Senate on 7th July, 1915; passed, without amendment, on 15th July, 1915. Writs issued on 2nd November, 1915, for submission of Bill to the electors on 11th December, 1915, but (under the authority of the Referendum (Constitution Alteration) Act (No. 2) 1915, assented to on 15th November, 1915) withdrawn by proclamation dated 17th November, 1915, and published in the Gazette, No. 143, dated 18th November, 1915, pages 2925-6.



BILL NO. 33.

A BILL

FOR

AN ACT

To alter Paragraph (xxxv.) of Section Fifty-one of the Constitution.

B E it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:-

- 1. This Act may be cited as Constitution Alteration (Industrial Short title. Matters) 1915.
- 2. Section fifty-one of the Constitution is altered by omitting from Industrial paragraph (xxxv.) the words "Conciliation and arbitration for the matters. prevention and settlement of industrial disputes extending beyond the limits of any one State," and inserting in their stead the words-

"Industrial matters, including-

(a) labour;

(b) employment and unemployment;

(c) the terms and conditions of labour and employment in any trade, industry, occupation, or calling;

(d) the rights and obligations of employers and employees;

(e) strikes and lockouts;

(f) the maintenance of industrial peace; and (g) the settlement of industrial disputes."

Introduced into the House of Representatives on 18th June, 1915; passed, without amendment, on 2nd July, 1915; introduced into the Senate on 7th July, 1915; passed, without amendment, on 15th July, 1915. Writs issued on 2nd November, 1915, for submission of Bill to the electors on 11th December, 1915, but (under the authority of the Referendum (Constitution Alteration) Act (No. 2) 1915, assented to on 15th November, 1915) withdrawn by proclamation dated 17th November, 1915, and published in the Gazette, No. 143, dated 18th November, 1915, pages 2005 6 November, 1915, pages 2925-6.

BILL NO. 34.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industries and Businesses declared to be the subject of a Monopoly.

Preamble.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

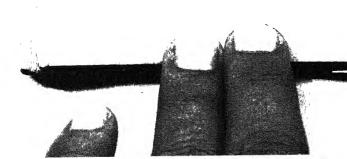
Short title.

- 1. This Act may be cited as Constitution Alteration (Nationalization of Monopolies) 1915.
- 2. The Constitution is altered by inserting, after section fifty-one thereof, the following section:—

Nationalization of monopolies.

- "51A.—(1.) When each House of the Parliament, in the same session, has by Resolution, passed by an absolute majority of its members, declared that the industry or business of producing, manufacturing, or supplying any specified goods, or of supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business.
- "(2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State."

Introduced into the House of Representatives on 18th June, 1915; passed, without amendment, on 2nd July, 1915; introduced into the Senate on 7th July, 1915; passed, without amendment, on 15th July, 1915. Writs issued on 2nd November, 1915, for submission of Bill to the electors on 11th December. 1915, but (under the authority of the Referendum (Constitution Alteration) Act (No. 2) 1915, assented to on 15th November, 1915) withdrawn by proclamation dated 17th November, 1915, and published in the Gazette, No. 143, dated 18th November, 1915, pages 2925-6.



BILL NO. 35.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Industrial Disputes in relation to Employment in State Railway Services.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as Constitution Alteration (Railway Short title. Disputes) 1915.
- 2. Section fifty-one of the Constitution is altered by inserting after Railway paragraph (xxxv.) the following paragraph:—

"(xxxv.a.) Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State."

Introduced into the House of Representatives on 18th June, 1915; passed, without amendment, on 2nd July, 1915; introduced into the Senate on 7th July, 1915; passed, without amendment, on 15th July, 1915. Writs issued on 2nd November, 1915, for submission of Bill to the electors on 11th December, 1915, but (under the authority of the Referendum (Constitution Alteration) Act (No. 2) 1915, assented to on 15th November, 1915) withdrawn by proclamation dated 17th November, 1915, and published in the Gazette, No. 143, dated 18th November, 1915, pages 2925-6

BILL NO. 36.

[As introduced into the House of Representatives.]

A BILL

FOR

AN ACT

To alter Section Thirteen of the Constitution.

DE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

- 1. This Act may be cited as the Constitution Alteration (Senators' Term of Service) 1915.
- 2. Section thirteen of the Constitution is altered to read as follows:—

Rotation of senators. "13. As soon as may be after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of three years and two months, and the places of those of the second class at the expiration of six years and four months, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years and four months from the beginning of their term of service.

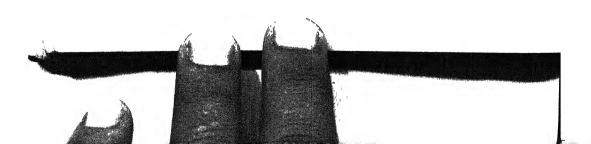
The election to fill vacant places shall be made within one year before the places are to become vacant.

For the purposes of this section the term of service of the senators elected in the year One thousand nine hundred and fourteen shall be taken to have begun on the first day of October, One thousand nine hundred and fourteen, and the term of service of a senator elected to fill a vacancy thereafter occurring in rotation shall be taken to begin on the day on which the place which he is to fill becomes vacant."*

Introduced into the House of Representatives on 25th August, 1915; passed (with an amendment, as indicated in the note at foot of this page) on 27th August, 1915; introduced into the Senate on 27th August, 1915; passed, without amendment, on 2nd September, 1915. Writs issued on 2nd November, 1915, for submission of Bill to the electors on 11th December, 1915, but (under the authority of the Referendum (Constitution Alteration) Act (No. 2) 1915, assented to on 15th November, 1915) withdrawn by proclamation dated 17th November, 1915, and published in the Gazette, No. 143, dated 18th November, 1915, pages 2925-6.

*NOTE.—The words ", and the term of service of senators elected at an election next after a dissolution of the Senate shall be taken to begin on the day of the first meeting of the House of Representatives after the dissolution.", were added by amendment moved in the House of Representatives on 26th August, 1915.

For copy of Bill as passed by both Houses of the Parliament, see infra, p. 253



BILL No. 36.

[As passed by both Houses of the Parliament.]*

A PROPOSED LAW

To alter Section Thirteen of the Constitution.

B E it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as the Constitution Alteration (Senators' short title. Term of Service) 1915.
- 2. Section thirteen of the Constitution is altered to read as follows:—
- "13. As soon as may be after each first meeting of the Senate Rotation of following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of three years and two months, and the places of those of the second class at the expiration of six years and four months, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years and four months from the beginning of their term of service.

The election to fill vacant places shall be made within one year before the places are to become vacant.

For the purposes of this section the term of service of the senators elected in the year One thousand nine hundred and fourteen shall be taken to have begun on the first day of October, One thousand nine hundred and fourteen, and the term of service of a senator elected to fill a vacancy thereafter occurring in rotation shall be taken to begin on the day on which the place which he is to fill becomes vacant, and the term of service of senators elected at an election next after a dissolution of the Senate shall be taken to begin on the day of the first meeting of the House of Representatives after the dissolution."

Datation of

^{*} Note -Not submitted to electors for leason set out in first footnote on previous page.

BILL NO. 37.

A BILL

FOR

AN ACT

To alter Paragraph (i.) of Section Fifty-one of the Constitution.

Preamble.

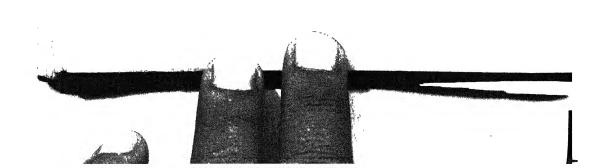
BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as Constitution Alteration (Trade and Commerce) 1915.

Trade and Commerce. 2. Section fifty-one of the Constitution is altered by omitting from paragraph (i.) the words "with other countries and among the States".

Introduced into the House of Representatives on 18th June, 1915; passed, without amendment, on 2nd July, 1915; introduced into the Senate on 7th July, 1915; passed, without amendment, on 15th July, 1915. Writs issued on 2nd November, 1915, for submission of Bill to the electors on 11th December, 1915, but (under the authority of the Referendum (Constitution Alteration) Act (No. 2) 1915, assented to on 15th November, 1915) withdrawn by proclamation dated 17th November, 1915, and published in the Gazette, No. 143, dated 18th November, 1915, pages 2925-6.



BILL NO. 38.

A BILL

FOR

AN ACT

To alter the Constitution by empowering the Parliament to make Laws with respect to Trusts, Combinations, and Monopolies.

B^E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows :--

- 1. This Act may be cited as Constitution Alteration (Trusts) 1915.
- 2. Section fifty-one of the Constitution is altered by adding at the combinations, and monopolies end thereof the following paragraph:-

- "(xl.) Trusts, combinations, monopolies and arrangements in relation to-
 - (a) the production, manufacture, or supply of goods, or the supply of services, or
 - (b) the ownership of the means of production, manufacture, or supply of goods, or supply of services."

Introduced into the House of Representatives on 18th June, 1915; passed, without amendment, on 2nd July, 1915; introduced into the Senate on 7th July, 1915; passed, without amendment, on 15th July, 1915. Writs issued on 2nd November, 1915, for submission of Bill to the electors on 11th December, 1915, but (under the authority of the Referendum (Constitution Alteration) Act (No. 2) 1915, assented to on 15th November, 1915) withdrawn by proclamation dated 17th November, 1915, and published in the Gazette, No. 143, dated 18th November, 1915, pages 2925-6 November, 1915, pages 2925-6.

BILL No. 39.—Constitution Alteration (Corporations).

BILL No. 40.—Constitution Alteration (Industrial Matters).

BILL No. 41.—Constitution Alteration (Nationalization of Monopolies).

BILL No. 42.—Constitution Alteration (Railway Disputes).

BILL No. 43.—Constitution Alteration (Trade and Commerce).

BILL No. 44.—Constitution Alteration (Trusts).

These Bills, which were introduced into the Senate by a private member (the Leader of the Opposition) on 13th December, 1916, are identical with Bills Nos. 32, 33, 34, 35, 37 and 38 respectively, with the exception of the substitution of the year "1916" for the year "1915" in the short title of each Bill. The actual text of these Bills has therefore not been included in this volume. The second reading of each Bill was moved on 15th December, 1916, but the motion for the second reading was ruled out of order by the President on the ground that as Bills exactly similar in terms were before the Senate and had been passed during that session, the motion was in contravention of Standing Order No. 133, which provided that during any session no question should be again submitted to the Senate which was the same in substance as one already agreed to during that session.



BILL NO. 45.

[As introduced into the House of Representatives.]

A BILL

AN ACT

To alter Section Fifty-one of the Constitution.

E it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:-

- 1. This Act may be cited as Constitution Alteration (Legislative Short title. Powers) 1919.
- 2. Section fifty-one of the Constitution is altered by omitting from Trade and paragraph (i.) the words "with other countries, and among the States", and by adding at the end of paragraph (i.) the words "Provided that the alteration of this paragraph by Constitution Alteration (Legislative Powers) 1919 shall not be construed to empower the Parliament to make laws with respect to the control or management of railways the property of a State, or the rates or fares on such railways:".

3. Section fifty-one of the Constitution is altered by omitting from corporations paragraph (xx.) the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:", and inserting in their stead the words-

"Corporations, including-

(a)* the creation, dissolution, regulation, and control of corporations;

Introduced into the Houses of Representatives on 1st October, 1919; passed, without amendment, on 2nd October, 1919; introduced into the Senate on 3rd October, 1919; passed (with amendments as indicated in the notes at foot of this page and the next page) on 10th October, 1919. Amendments agreed to by House of Representatives on 10th October, 1919. Bill submitted to the electors on 13th December, 1919, and NOT APPROVED.

Voting at Referendum-

s	tate.			In favour.	Not in favour.	Informal.
New South Wales Victoria	::		::	259,751 369,210	390,450 201,869	67,132 66 227
Queensland South Australia	• • • • • • • • • • • • • • • • • • • •	• •	:-	175,225 40,520	130,299 119,789	24,397 17,656
Western Australia Tasmania	•••	••		48,142 18,509	44,892 36,861	9,854 10,128
Totals	••			911,357	924,160	195,394

For copy of Bill as submitted to the electors, see infra, pp. 259-60. For further details of voting, see Commonwealth Parliamentary Papers, Session 1920-21, Vol. IV., p. 307 et seq.

Nore.—*Paragraph (a) was omitted by amendment moved in the Senate on 10th October, 1919.

- (t) ecrporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable. † scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and
- (c) foreign corporations, including their regulation and control: ".

Industrial

- 4. Section fifty-one of the Constitution is altered by omitting from paragraph (xxxx.) the words "Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:", and inserting in their stead the words—
 - "Industrial matters, including-

(a) labour;

(b) employment and unemployment;

- (c) the terms and conditions of labour and employment in any trade, industry, occupation or calling;
- (d) the rights and obligations of employers and employees;

(e) strikes and lock-outs;

(f) the maintenance of industrial peace; and (g) the settlement of industrial disputes:".

Trusts.

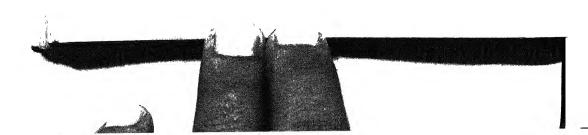
- 5. Section fifty-one of the Constitution is altered by adding at the end thereof the following paragraph:—
 - "(xl.) Trusts, combinations, monopolies and arrangements in relation to-
 - (a) the production, manufacture, or supply of goods, or the supply of services; or
 - (b) the ownership of the means of production, manufacture or supply of goods, or supply of services.".
 - 6. The alterations made by this Act shall remain in force-
 - (a) until the expiration of three years from the assent of the Governor-General thereto; or
 - (b) until a convention constituted by the Commonwealth makes recommendations for the alteration of the Constitution and the people endorse those recommendations,

whichever first happens, and shall then cease to have effect:

Provided that if no such convention is constituted by the Commonwealth before the thirty-first day of December, One thousand nine hundred and twenty, the alterations made by this Act shall cease to have effect on the said thirty-first day of December, One thousand nine hundred and twenty.

*By amendment moved in the Senate on 10th October, 1919, the following sub-clause was added to clause 6:—

Duration of alterations made by Constitution Alteration (Legislative Powers) 1919.



[†] NOTE.—The word "educational" was inserted after the word "charitable". by amendment moved in the Senate on 10th October, 1919.

[&]quot;(2.) No law passed by the Parliament by virtue of the powers conferred by this Act shall continue to have any force or effect, by virtue of this Act, after the alterations made by this Act have ceased to have effect."

BILL NO. 45.

[As submitted to the electors.]

PROPOSED LAW

To alter Section fifty-one of the Constitution.

B^E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as

- 1. This Act may be cited as Constitution Alteration (Legislative Short title. Powers) 1919.
- 2. Section fifty-one of the Constitution is altered by omitting from Trade and Commerce. paragraph (i.) the words "with other countries, and among the States", and by adding at the end of paragraph (i.) the words "Provided that the a'teration of this paragraph by Constitution Alteration (Legislative Powers) 1919 shall not be construed to empower the Parliament to make laws with respect to the control or management of railways the property of a State, or the rates or fares on such

3. Section fifty-one of the Constitution is altered by omitting from Corporations. paragraph (xx.) the words "Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:", and inserting in their stead the words-

- "Corporations, including-
 - (a) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, educational, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and
 - (b) foreign corporations, including their regulation and control:".
- 4. Section fifty-one of the Constitution is altered by omitting from Industrial paragraph (xxxv.) the words "Conciliation and arbitration for the matters. prevention and settlement of industrial disputes extending beyond the limits of any one State:", and inserting in their stead the words-

"Industrial matters, including-

(a) labour;

(b) employment and unemployment;

(c) the terms and conditions of labour and employment in any trade, industry, occupation or calling;

(d) the rights and obligations of employers and employees;

(e) strikes and lock-outs;

(f) the maintenance of industrial peace; and

(g) the settlement of industrial disputes:".

Trusts.

- 5. Section fifty-one of the Constitution is altered by adding at the end thereof the following paragraph:—
 - "(xl.) Trusts, combinations, monopolies and arrangements in relation to-
 - (a) the production, manufacture, or supply of goods, or the supply of services; or
 - (b) the ownership of the means of production, manufacture, or supply of goods, or supply of services.".

Duration of alterations made by Constitution Alteration (Legislative Powers) 1919.

- 6.-(1.) The alterations made by this Act shall remain in force-
 - (a) until the expiration of three years from the assent of the Governor-General thereto; or
 - (b) until a convention constituted by the Commonwealth makes recommendations for the alteration of the Constitution and the people endorse those recommendations,

whichever first happens, and shall then cease to have effect:

Provided that if no such convention is constituted by the Commonwealth before the thirty-first day of December, One thousand nine hundred and twenty, the alterations made by this Act shall cease to have effect on the said thirty-first day of December, One thousand nine hundred and twenty.

(2.) No law passed by the Parliament by virtue of the powers conferred by this Act shall continue to have any force or effect, by virtue of this Act, after the alterations made by this Act have ceased to have effect.

For voting of the electors on this Bill, see supra, p. 257.

BILL NO. 46.

[As introduced into the House of Representatives.]

A BILL

FOR

AN ACT

To alter the Constitution.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble the House of Representatives of the Communications of t the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as

- 1. This Act may be cited as Constitution Alteration (Nationaliza- Short title. tion of Monopolies) 1919.
- 2. The Constitution is altered by inserting, after section fifty-one, the following section:

"51a .- (1.) The Parliament shall have power to make laws for Nationalization carrying on by or under the control of the Commonwealth, the of Monopolies industry or business of producing, manufacturing, or supplying any specified goods, or of supplying any specified services, and for acquiring for that purpose on just terms the assets and goodwill of the industry or business, where each House of the Parliament has in the same Session, by resolution passed by an absolute majority of its members, referred to the High Court, for inquiry and report by a Justice thereof, the question whether the industry or business is the subject of a monopoly, and where, after the report of the Justice has been received, each House of the Parliament has, in one Session, by resolution passed by an absolute majority of its members, declared that the industry or business is the subject of a monopoly.

Introduced into the House of Representatives on 2nd October, 1919; passed, without amendment, on 3rd October, 1919; introduced into the Senate on 3rd October, 1919; passed (with an amendment as indicated in the note on the next page) on 10th October, 1919 Amendments agreed to by the House of Representatives on 10th October, 1919. Bill submitted to the electors on 13th December, 1919, and NOT APPROVED.

Voting at Referendum-

	State.			In favour	Not in favour.	Informal
New South Wales				227,156 324,343	365,847 188,129	124,330 124,834
Victoria . Queensland .	••	:	::	162,062	122,650	45,209
South Australia Western Australia	.:	• •	::	38,503 45,285	112,259 38,584	27,203 19,019
Tasmania	•••	.:	- ::	16,531	31,982	16,985
Totals				813,880	859,451	357,580

For copy of Bill as submitted to the electors, see infra, p. 263.

For further details of voting, see Commonwealth Parliamentary Papers, Session 1920-21, Vol. IV., p. 307 et seq.

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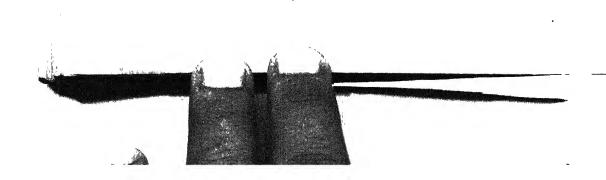
"(2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State.".

Duration of alterations made by Constitution Alteration (Nationalization of Monopolies) 1919.

- 3. The alterations made by this Act shall remain in force-
 - (a) until the expiration of three years from the assent of the Governor-General thereto; or
 - (b) until a convention constituted by the Commonwealth makes recommendations for the alteration of the Constitution and the people endorse those recommendations,

whichever first happens, and shall then cease to have effect:

Provided that if no such convention is constituted by the Commonwealth before the thirty-first day of December, One thousand nine hundred and twenty, the alterations made by this Act shall cease to have effect on the said thirty-first day of December, One thousand nine hundred and twenty.



^{*}Note.—By amendment moved in the Senate on 10th October, 1919, the following sub-clause was added to clause 3:--

[&]quot;(2.) No law passed by the Parliament by virtue of the powers conferred by this Act shall continue to have any force or effect, by virtue of this Act, after the alterations made by this Act have ceased to have effect."

BILL NO. 46.

[As submitted to the electors.]

A PROPOSED LAW

To alter the Constitution.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as

1. This Act may be cited as Constitution Alteration (Nationaliza- Short title. tion of Monopolies) 1919.

2. The Constitution is altered by inserting, after section fifty-one, the following section:-

"51a.—(1.) The Parliament shall have power to make laws for Nationalization of Monopolies. carrying on by or under the control of the Commonwealth, the industry or business of producing, manufacturing, or supplying any specified goods, or of supplying any specified services, and for acquiring for that purpose on just terms the assets and goodwill of the industry or business, where each House of the Parliament has in the same Session, by resolution passed by an absolute majority of its members, referred to the High Court, for inquiry and report by a Justice thereof, the question whether the industry or business is the subject of a monopoly, and where, after the report of the Justice has been received, each House of the Parliament has, in one Session, by resolution passed by an absolute majority of its members, declared that the industry or business is the subject of a monopoly.

"(2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State.".

3.—(1.) The alterations made by this Act shall remain in force—

(a) until the expiration of three years from the assent of the Governor-General thereto; or

(b) until a convention constituted by the Commonwealth makes

(Nationalization of Monagonitary of Monagonitary)

recommendations for the alteration of the Constitution 1919. and the people endorse those recommendations,

whichever first happens, and shall then cease to have effect:

Provided that if no such convention is constituted by the Commonwealth before the thirty-first day of December, One thousand nine hundred and twenty, the alterations made by this Act shall cease to have effect on the said thirty-first day of December, One thousand nine hundred and twenty.

(2.) No law passed by the Parliament by virtue of the powers conferred by this Act shall continue to have any force or effect, by virtue of this Act, after the alterations made by this Act have ceased to have effect.

Duration of

For voting of the electors on this Bill, see supra p. 261.

BILL NO. 47.

A BILL

FOR

AN ACT

To alter the provisions of the Constitution in relation to Essential Services.

Preamble.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title

1. This Act may be cited as Constitution Alteration (Essential Services) 1926.

Essential services.

2. Section fifty-one of the Constitution is altered by inserting after paragraph (v.) the following paragraph:—

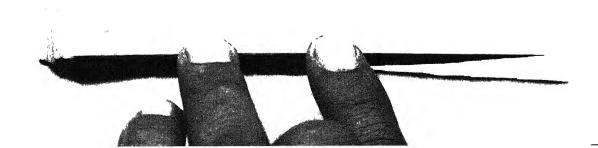
"(v.) A. Protecting the interests of the public in case of actual or probable interruption of any essential service:".

Introduced into the House of Representatives on 20th May, 1926; passed, without amendment, on 16th June, 1926; introduced into the Senate on 16th June, 1926; passed, without amendment, on 25th June, 1926. Submitted to the electors on 4th September, 1926, and NOT APPROVED.

Voting at Referendum-

Si	tate.			In favour.	Not in favour.	Informal.
New South Wales	••	••		545,270 296,548	536,734 537,560	49,652 54,553
Queensland	••	•	:	188,473	184,320	26,871
outh Australia Vestern Australia	• •	••	•••	81,966 39,566	179,740 113,222	19,786 11,767
Casmania	••	::		43,679	46,217	8,460
Totals	••			1,195,502	1,597,793	171,089

For further details of voting, see Commonwealth Parliamentary Papers, Session 1926-28, Vol. II., p. 413 et seq.



BILL NO. 48.

[As introduced into the House of Representatives.]

A BILL

A PROPOSED LAW

To alter the provisions of the Constitution in relation to Industry and Commerce.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble. the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:-

- 1. This Act may be cited as Constitution Alteration (Industry and Short title Commerce) 1926.
 - 2. Section fifty-one of the Constitution is altered-

Industry and Commerce.

(a) by omitting from paragraph (xxxv.) the words "extending beyond the limits of any one State"; and

Introduced into the House of Representatives on 20th May, 1926; passed (with amendments as indicated in the notes at foot of this page and the next page) on 10th June, 1926; introduced into the Senate on 11th June, 1926; passed, without amendment, on 25th June, 1926. Submitted to the electors on 4th September, 1926, and NOT APPROVED

Voting at Referendum-

	State.			In favour	Not in favour	Informal
New South Wales Victoria Queensland South Australia Western Australia Taomania	••	· 	::	566,973 310,261 202,691 78 983 46,469 41,711	533,284 546,138 186,374 190,396 112,185 51,278	31,399 32,262 10,599 12 113 5,901 5,367
Totals	••	••		1,247,088	1,619,655	97,641

For copy of Bill as submitted to the e'ectors, see infra, p. 267.

For further details of voting, see Commonwealth Parliamentary Papers, Session 1926-28, Vol. II., p. 413 et seg.

*Note.—By amendment moved in the House of Representatives on 10th June,

1926, the following paragraph was inserted before paragraph (a):—

"(a) by omitting from paragraph (xx) the words 'Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth,' and inserting in their stead the words 'Corporations, including—

(a) the creation, regulation, control and dissolution of corpora-

tions; (b) the regulation, control and dissolution of corporations formed

under the law of a State; and (c) the regulation and control of foreign corporations; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific or artistic purposes, or any corporation not formed for the acquisition of gain by the corporation or its members'; ".

(b) by inserting after paragraph (xxxix.) the following para-

graphs:-

"(xl.) Establishing authorities with such powers as
the Parliament confers on them with respect
to the regulation and determination of terms
and conditions of industrial employment and
of rights and duties of employers and
employees with respect to industrial matters
and things:

(xli.) Investing State authorities with any powers which the Parliament, by virtue of paragraph (xxxv.) or paragraph (xl.) of this section, has vested or has power to vest in any authority

established by the Commonwealth:

(xlii.) Trusts and combinations* in restraint of trade, trade unions, and associations of employers or of employees for industrial purposes, including the formation, dissolution,* regulation and control thereof.".

Notes.—*The words "(whether composed of individuals or corporations or both)" were inserted in paragraph (xlii) after the word "combinations", by amendment moved in the House of Representatives on 10th June, 1926.

†The words "dissolution, regulation and control" were omitted from paragraph (xlii.), and the words "regulation, control and dissolution" inserted in their stead, by amendment moved in the House of Representatives on 10th June, 1926.



BILL NO. 48.

[As submitted to the electors.]

A PROPOSED LAW

To alter the provisions of the Constitution in relation to Industry and Commerce.

BE it enacted by the King's Most Excellent Majesty, the Senate, and Preamble the House of Representatives of the Community of the Preamble the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as

1. This Act may be cited as Constitution Alteration (Industry and Short title

Commerce) 1926.

2. Section fifty-one of the Constitution is altered—

(a) by omitting from paragraph (xx.) the words "Foreign Commerce. corporations, and trading or financial corporations formed within the limits of the Commonwealth", and inserting in their stead the words "Corporations, including-

(a) the creation, regulation, control and dissolution of

corporations;

(b) the regulation, control and dissolution of corpora-tions formed under the law of a State; and

(c) the regulation and control of foreign corporations; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific or artistic purposes, or any corporation not formed for the acquisition of gain by the corporation or its members";

(b) by omitting from paragraph (xxxv.) the words "extending

beyond the limits of any one State"; and (c) by inserting after paragraph (xxxix.) the following paragraphs:-

"(xl.) Establishing authorities with such powers as the Parliament confers on them with respect to the regulation and determination of terms and conditions of industrial employment and of rights and duties of employers and employees with respect to industrial matters and things:

(xli.) Investing State authorities with any powers which the Parliament, by virtue of paragraph (xxxv.) or paragraph (xl.) of this section, has vested or has power to vest in any authority

established by the Commonwealth:

(xlii.) Trusts and combinations (whether composed of individuals or corporations or both) in restraint of trade, trade unions, and associations of employers or of employees for industrial purposes, including the formation, regulation, control and dissolution thereof.".

For voting of the electors on this Bill, see supra, p. 265.

BILL NO. 49.

A BILL

AN ACT

To alter the Constitution by inserting therein further Provisions relating to the public debts of the States and the borrowing of money by the Commonwealth and the States.

Preamble.

B E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia. with the approval of the electors, as required by the Constitution, as follows:-

Short title.

- 1. This Act may be cited as Constitution Alteration (State Debts) 1928.
- 2. The Constitution is altered by inserting after section one hundred and five the following section:-

Agreements with respect to State debts.

- "105A.—(1.) The Commonwealth may make agreements with the States with respect to the public debts of the States, including-
 - (a) the taking over of such debts by the Commonwealth;(b) the management of such debts;

- (c) the payment of interest and the provision and management of sinking funds in respect of such debts;
- (d) the consolidation, renewal, conversion, and redemption of such debts;
- (e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
- (f) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

Introduced into the House of Representatives on 31st August, 1928; passed, without amendment, on 4th September, 1928: introduced into the Senate on 5th September, 1928; passed, without amendment, on 14th September, 1928 Submitted to the electors on 17th November, 1928, and APPROVED.

Voting at Referendum-

State.					In favour.	Not in favour.	Informal.
New South Wal	les	•	٠.		754,446	415,846	74,626
Queensland		• • •	• • •	::	791,425 367,257	110,143 47,250	51,909 20,791
South Australia Western Austra		••	••		164 628 96,913	98,017	38,534
Tasmania	•••	::	••	::	62,722	71,552 31,044	15,010 12,387
Tot	als	••	••		2,237,391	773,852	213,257

For further details of voting, see Commonwealth Parliamentary Papers, Session 1929, Vol. II., p. 143 et seq.

Bill assented to 13th February, 1929 (now Act No. 1, 1929—contained in this volume, supra, p. 116).

- "(2.) The Parliament may make laws for validating any such agreement made before the commencement of this section.
- "(3.) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.
- "(4.) Any such agreement may be varied or rescinded by the parties thereto.
- "(5.) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwith-standing anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.
- "(6.) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.".

BILL NO. 50.

A BILL

AN ACT

To alter the provisions of the Constitution with respect to Industrial Matters.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:-

Short title.

1. This Act may be cited as Constitution Alteration (Industrial Powers) 1930.

Industrial matters.

- 2. Section fifty-one of the Constitution is altered by omitting from paragraph (xxxv.) the words "Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State", and inserting in their stead the words-
 - "Industrial matters, including-

(a) labour;

(b) employment and unemployment;

- (c) terms and conditions of labour and employment in any trade, industry, profession, occupation or calling;
 (d) the rights and obligations of employers and employees;

(e) strikes and lock-outs;

(f) the maintenance of industrial peace; and (g) the settlement of industrial disputes".

Introduced into the House of Representatives on 13th March, 1930; passed, without amendment, on 10th April, 1930; introduced into the Senate on 10th April, 1930; second reading negatived on 28th May, 1930.

BILL NO. 51.

A BILL

FOR

AN ACT

To alter the Constitution by conferring upon the Parliament full power to amend the Constitution.

B E it enacted by the King's Most Excellent Majesty, the Senate, and Preamble the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

- 1. This Act may be cited as Constitution Alteration (Power of Short title. Amendment) 1930.
- 2. The Constitution is altered by inserting, after section one hundred and twenty-eight, the following section:—
- "129. Notwithstanding anything in the last preceding section, the Alteration of Parliament shall have full power to alter the Constitution in the Constitution by following manner:—

The proposed law for the alteration thereof must, after the lapse of one month from its origination in a House of the Parliament, be passed by an absolute majority of each House of the Parliament, and be assented to by the Governor-General.".

Introduced into the House of Representatives on 13th March, 1930; passed, without amendment, on 10th April, 1930; introduced into the Senate on 10th April, 1930; second reading negatived on 28th May, 1930.

BILL NO. 52.

A BILL

FOR

AN ACT

To alter Paragraph (i.) of Section Fifty-one of the Constitution.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

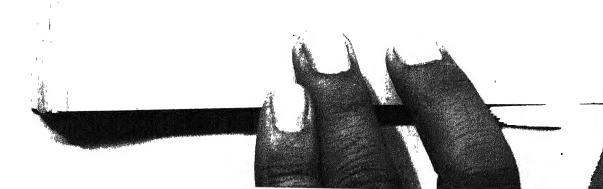
1. This Act may be cited as Constitution Alteration (Trade and Commerce) 1930.

Trade and Commerce.

- 2. Section Fifty-one of the Constitution is altered-
 - (a) by omitting from Paragraph (i.) the words "with other countries and among the States"; and
 - (b) by adding at the end of Paragraph (i.) the following proviso:—

"Provided that the alteration of this paragraph by Constitution Alteration (Trade and Commerce) 1930 shall not be construed to empower the Parliament to make laws with respect to the control or management of Railways the property of a State, or the rates or fares on such Railways:".

Introduced into the House of Representatives on 4th April, 1930; passed, without amendment, on 10th April, 1930; introduced into the Senate on 30th April, 1930; second reading negatived on 28th May, 1930.



BILL NO. 53.

A BILL

FOR

AN ACT

To alter the Constitution with respect to Air Navigation and Aircraft.

BE it enacted by the King's Most Excellent Majesty, the Senate, reamble, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:

- 1. This Act may be cited as Constitution Alteration (Amotion) 1936. Short title.
- 2 The Constitution is altered by inserting in section fifty-one air navigation after paragraph (vi.) the following paragraph —

"(vi A.) Air navigation and aircraft:".

Introduced into the House of Representatives on 12th November, 1936; passed, without amendment, on 18th November, 1936; introduced into the Senate on 18th November, 1936; passed, without amendment, on 2nd December, 1936. Submitted to the electors on 6th March, 1937, and NOT APPROVED.

Voting at Referendum-

State		In favour	Not in favour	Informal
New South Wales Victoria Queensland South Australia Western Australia Tasmania		664,589 675,181 310,352 128,582 100,326 45,616	741,821 362,112 191,251 191,831 110,529 71,518	55,450 36,685 18,330 21,031 10,977 7,882
Totals		1,924,946	1,669,062	150,335

BILL NO. 54.

A BILL

FifR

AN ACT

To alter the Constitution with respect to marketing.

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, with the approval of the electors as required by the Constitution, as follows:—

Short title.

- 1. This Act may be cited as Constitution Alteration (Marketing) 1936.
- 2. The Constitution is altered by inserting after section ninety-two the following section:—

Marketing laws.

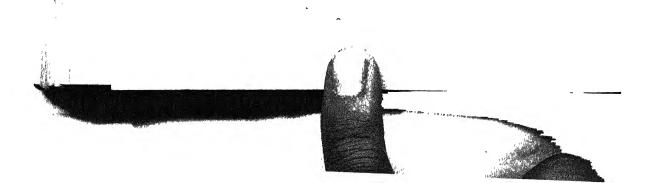
"92a. The provisions of the last preceding section shall not apply to laws with respect to marketing made by, or under the authority of,* the Parliament in the exercise of any powers vested in the Parliament by this Constitution.".

Introduced into the House of Representatives on 14th October, 1936; passed (with the amendment indicated in the note at the foot of this page) on 29th October, 1936; introduced into the Senate on 10th November, 1936; passed, without amendment, on 2nd December, 1936. Submitted to the electors 6th March, 1937, and NOT APPROVED.

Voting at Referendum-

State	In favour	Not in favour	Intottual
New South Wales Victoria . Queensland South Australia Western Australia Tasmania .	 456,802 - 468,337 187,685 65,364 57,023 24,597	896,457 537,021 296,302 248,502 148,308 87,798	108,601 68,920 35,946 27,578 16,501 12,621
Totals	1,259,808	2,214,388	270,167

^{*} Note.—The words ", or under the authority of." were inserted by an amendment moved in the House of Representatives on 29th October, 1936.



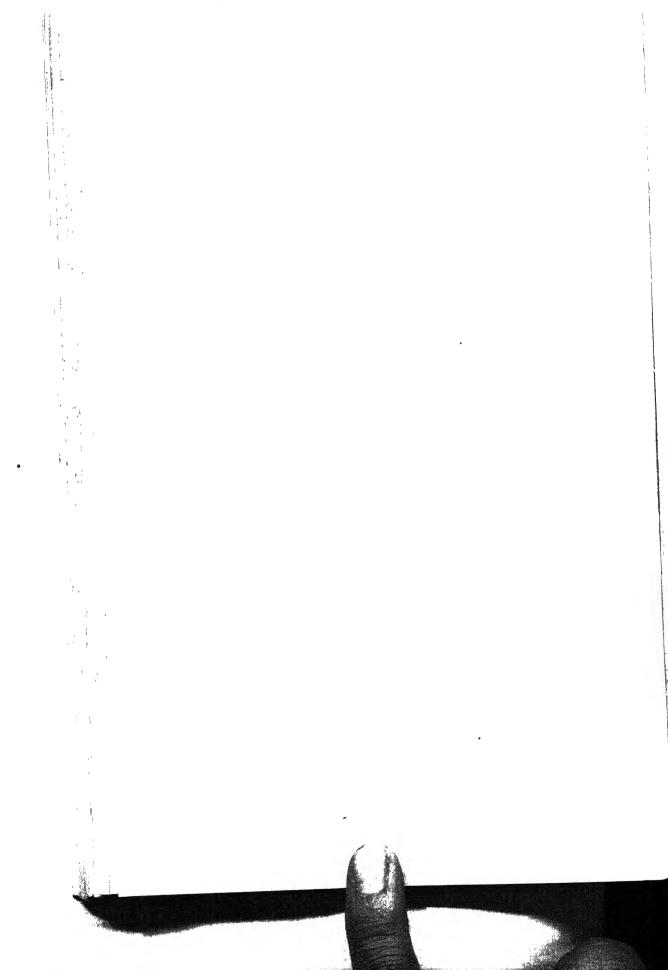
APPENDIX E.

THE STATUTE OF WESTMINSTER, 1931, (22 GEO. V. CH. 4),

AND THE FOLLOWING STATUTORY PROVISIONS THEREIN REFERRED TO, VIZ.:—
COLONIAL COURTS OF ADMIRALTY ACT, 1890, ss. 4, 7;

COLONIAL LAWS VALIDITY ACT, 1865;

Interpretation Act, 1889, s. 18, (Definition of "Colony");
MERCHANT SHIPPING Act, 1894, ss. 735, 736.



THE STATUTE OF WESTMINSTER, 1931.

22 Geo. V., Ch. 4.

An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930.

[11th December, 1931.]

WHEREAS the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences:

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion:

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom:

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained:

Note.—As to the application of sections 2, 3, 4, 5 and 6 of this Act to the Commonwealth of Australia, see section 10 of this Act and the footnote thereto, infra, p 278.



Now, therefore, be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Lords Spirmual and Temporal. and Commons, in this present Parliament assembled, and by the authority the same, as follows:--

Meaning of "Dominion" in this Act.

1. In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada. the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa. the Irish Free State and Newfoundland.

Validity of laws made by Parliament of a Dominion. 28 and 29 Vict. c. 63.

-

- 2.—(1.) The Colonial Laws Validity Act, 1865, 'shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.
- (2.) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act. and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.
- 3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.
- 4. No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.
- 5. Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894,† shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

Power of Parliament of Dominion to legislate extra-territorially. Parliament of Kingdom not to legislate for Dominion except by consent.

Powers of Dominion Parliaments in relation to merchant shipping. 57 and 58 Vict. c. 60.

- * NOTE.—For copy of the Colonial Laws Validity Act, 1865, see infra, pp. 279-81.
- † Sections 735 and 736 of the Merchant Shipping Act, 1894, relating to the powers of Colonia Legislatures, are as tollows -

atures, are as tollows —

735.—(1.) The legislature of any British possession may by any Act or Ordinance, confirmed
by Her Majesty in Council, repeal, wholly or in part, any provisions of this Act (other than those
of the Third Part thereof which relate to emigrant ships), relating to ships registered in that
possession, but any such Act or Ordinance shall not take effect until the approval of Her Majesty
has been proclaimed in the possession, or until such time thereafter as may be fixed by the Act or
Ordinance for the purpose

(2) Where any Act or Ordinance of the legislature of a British possession has repealed in whole
or in part as respects that possession any provision of the Acts repealed by this Act, that Act or
Ordinance shall have the same effect in relation to the corresponding provisions of this Act as it
had in relation to the provision repealed by this Act.

736. The legislature of a British possession, may, by any Act or Ordinance, regulate the coasting
trade of that British possession, subject in every case to the following conditions:—

(a) The Act or Ordinance shall contain a suspending clause providing that the Act or

(a) The Act or Ordinance shall contain a suspending clause providing that the Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed:

(b) The Act or Ordinance shall treat all British ships (including the ships of any other British possession) in exactly the same manner as ships of the British possession in which it is made:

which it is made:

(c.) Where by treaty made before the passing of the Merchant Shipping (Colonial) Act, 1869

(that is to say, before the thirteenth day of May eighteen hundred and sixty-nine),

Her Majesty has agreed to grant to any ships of any foreign state any rights or

privileges in respect of the coasting trade of any British possession, those rights and

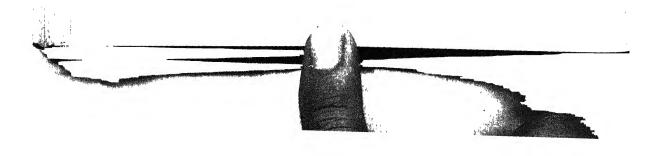
privileges shall be enjoyed by those ships for so long as Her Majesty has already

agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

Power of colonial legislatures to

Regulation of coasting trade by colonial legislature.

32 & 33 Vict. c. 11.



6. Without prejudice to the generality of the foregoing provisions of Powers of this Act, section four of the Colonial Courts of Admiralty Act, 1890* Parliaments in (which requires certain laws to be reserved for the signification of His Courts of Majesty's pleasure or to contain a suspending clause), and so much of 53 and 54 Vict. this Act, section four of the Colonial Courts of Admiralty Act, 1890* section seven of that Act* as requires the approval of His Majesty in c. 27. Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.

7.—(1.) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder.

Saving for British North America Acts and application of the Act to Canada.

- (2.) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.
- (3.) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.
- 8. Nothing in this Act shall be deemed to confer any power to repeal Saving for Constitution or alter the Constitution or the Constitution Act of the Commonwealth Australia and Australia or the Constitution Act of the Dominion of New Zealand New Zealand. otherwise than in accordance with the law existing before the commencement of this Act.

9.—(1.) Nothing in this Act shall be deemed to authorise the Saving with Parliament of the Commonwealth of Australia to make laws on any States of Australia matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

* Sections 4 and 7 of the Colonial Courts of Admiralty Act, 1890, are as follows :-

Sections 4 and 7 of the Colonial Courts of Admiralty Act, 1890, are as follows:—

4 Every Colonial law which is made in pursuance of this Act, or affects the jurisdiction of or practice or procedure in any court of such possession in respect of the jurisdiction conferred by this Act, or alters any such Colonial law as above in this section mentioned, which has been previously passed, shall, unless previously approved by Her Majesty through a Secretary of State, either be reserved for the signification of Her Majesty's pleasure thereon, or contain a suspending clause providing that such law shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed 7—(1.) Rules of court for regulating the procedure and practice (including fees and costs) in a court in a British possession in the exercise of the jurisdiction conferred by this Act, whether original or appellate, may be made by the same authority and in the same manner as rules touching the practice, procedure, fees, and costs in the said court in the exercise of its ordinary civil jurisdiction respectively are made:

Provided that the rules under this section shall not, save as provided by this Act, extend to matters relating to the slave trade, and shall not (save as provided by this section) come into operation until they have been approved by Her Majesty in Council, but on coming into operation shall have full effect as if enacted in this Act, and any enactment inconsistent therewith shall, so far as it is so inconsistent, be repealed

(2) It shall be lawful for Her Majesty in Council, in approving rules made under this section, to declare that the rules so made with respect to any matters which appear to Her Majesty to be matters of detail or of local concern may be revoked, varied, or added to without the approval required by this section

(3) Such rules may provide for the exercise of any jurisdiction conferred by this Act by the full court, or by any judge or judges th

Reservation of Colonial law for Her

Rules of court.



- (2.) Nothing in this Act shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.
- (3.) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth.

Certain sections of Act not to apply to Australia, New Zealand or Newfoundland unless adopted.

- 10.—(1.) None of the following sections of this Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion.* and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.
- (2.) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in sub-section (1.) of this section.
- (3.) The Dominions to which this section applies are the Commonwealth of Australia,* the Dominion of New Zealand and Newfoundland.

Meaning of "Colony" in future Acts. 52 and 53 Vict. e. 63.

11

11. Notwithstanding anything in the Interpretation Act, 1889,† the expression "Colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

Short title.

12. This Act may be cited as the Statute of Westminster, 1931.

† The definition of "Colony" in the Interpretation Act, 1889, s 18 (3.), is as follows:—
(3.) The expression "Colony" shall mean any part of Her Majesty's dominions exclusive of the British Islands, and of British India, and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony

^{*}Note —Sections 2, 3, 4, 5 and 6 of this Act had not, up to the date of the preparation of this volume, been adopted by the Parliament of the Commonwealth.

COLONIAL LAWS VALIDITY ACT, 1865.

28 and 29 Vic., C. 63.

An Act to remove Doubts as to the Validity of Colonial Laws.

[29th June, 1865.]

"Whereas Doubts have been entertained respecting the Validity of divers Laws enacted or purporting to have been enacted by the Legislatures of certain of Her Majesty's Colonies, and respecting the Powers of such Legislatures, and it is expedient that such Doubts should be removed:"

Be it hereby enacted by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The Term "Colony" shall in this Act include all of Her Majesty's Definitions "Colony" Possessions abroad in which there shall exist a Legislature, as hereinafter defined, except the Channel Islands, the Isle of Man, and such Territories as may for the Time being be vested in Her Majesty under or by virtue of any Act of Parliament for the Government of India:

The Terms "Legislature" and "Colonial Legislature" shall severally "Legislature, signify the Authority, other than the Imperial Parliament of Her Majesty "Legislature:" in Council, competent to make Laws for any Colony:

The Term "Representative Legislature" shall signify any Colonial "Representa-Legislature which shall comprise a Legislative Body of which One Half Legislature:" are elected by Inhabitants of the Colony:

The Term "Colonial Law" shall include Laws made for any Colony "Colonial Law"." either by such Legislature as aforesaid or by Her Majesty in Council:

An Act of Parliament, or any Provision thereof, shall, in construing Act of this Act, be said to extend to any Colony when it is made applicable when to extend to such Colony by the express Words or necessary Intendment of any Act of Parliament:

The Term "Governor" shall mean the Officer lawfully administering "Governor:" the Government of any Colony:

The Term "Letters Patent" shall mean Letters Patent under the "Letters Patent" Great Seal of the United Kingdom of Great Britain and Ireland.

2. Any Colonial Law which is or shall be in any respect repugnant Colonial Law to the Provisions of any Act of Parliament extending to the Colony to Repugnancy. which such Law may relate, or repugnant to any Order or Regulation made under Authority of such Act of Parliament, or having in the



Colony the Force and Effect of such Act, shall be read subject to such Act, Order, or Regulation, and shall, to the Extent of such Repugnancy, but not otherwise, be and remain absolutely void and inoperative.

Colonial Law when not void for Repugnancy 3. No Colonial Law shall be or be deemed to have been void or inoperative on the Ground of Repugnancy to the Law of *England*, unless the same shall be repugnant to the Provisions of some such Act of Parliament, Order, or Regulation as aforesaid.

Colonial Law not void for Inconsistency with Instructions. 4. No Colonial Law, passed with the Concurrence of or assented to by the Governor of any Colony, or to be hereafter so passed or assented to, shall be or be deemed to have been void or inoperative by reason only of any Instructions with reference to such Law or the Subject thereof which may have been given to such Governor by or on behalf of Her Majesty, by any Instrument other than the Letters Patent or Instrument authorizing such Governor to concur in passing or to assent to Laws for the Peace, Order, and good Government of such Colony, even though such Instructions may be referred to in such Letters Patent or lastmentioned Instrument.

Colonia: Legislature may establish, &c Courts of Law. 5. Every Colonial Legislature shall have, and be deemed at all Times to have had, full Power within its Jurisdiction to establish Courts of Judicature, and to abolish and reconstitute the same, and to alter the Constitution thereof, and to make Provision for the Administration of Justice therein; and every Representative Legislature shall, in respect to the Colony under its Jurisdiction, have, and be deemed at all Times to have had, full Power to make Laws respecting the Constitution, Powers, and Procedure of such Legislature; provided that such Laws shall have been passed in such Manner and Form as may from Time to Time be required by any Act of Parliament, Letters Patent, Order in Council, or Colonial Law for the Time being in force in the said Colony.

Representative Legislature may alter Constitution

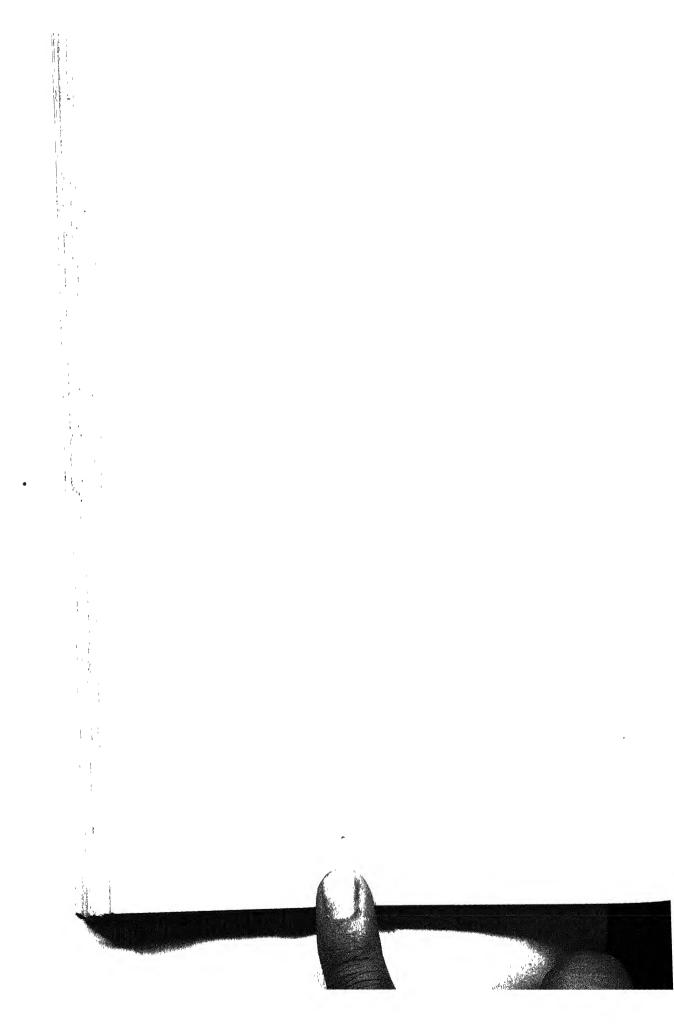
Certified Copies of Laws to be Evidence that they are properly passed

Proclamation to be Evidence of Assent and Disallowance 6. The Certificate of the Clerk or other proper Officer of a Legislative Body in any Colony to the Effect that the Document to which it is attached is a true Copy of any Colonial Law assented to by the Governor of such Colony, or of any Bill reserved for the Signification of Her Majesty's Pleasure by the said Governor, shall be prima facie Evidence that the Document so certified is a true Copy of such Law or Bill, and, as the Case may be, that such Law has been duly and properly passed and assented to, or that such Bill has been duly and properly passed and presented to the Governor; and any Proclamation purporting to be published by Authority of the Governor in any Newspaper in the Colony to which such Law or Bill shall relate, and signifying Her Majesty's Disallowance of any such Colonial Law, or Her Majesty's Assent to any such reserved Bill as aforesaid, shall be prima facie Evidence of such Disallowance or Assent.

"And whereas Doubts are entertained respecting the Validity of certain Acts enacted or reputed to be enacted by the Legislature of South Australia:" Be it further enacted as follows:

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7. All Laws or reputed Laws enacted or purporting to have been regislature of south Australia to be valid. Legislature of South Australia to be valid. enacted by the said Legislature, or by Persons or Bodies of Persons for the Time being acting as such Legislature, which have received the Assent of Her Majesty in Council, or which have received the Assent of the Governor of the said Colony in the Name and on behalf of Her Majesty, shall be and be deemed to have been valid and effectual from the Date of such Assent for all Purposes whatever; provided that nothing herein contained shall be deemed to give Effect to any Law or reputed Law which has been disallowed by Her Majesty, or has expired, or has been lawfully repealed, or to prevent the lawful Disallowance or Repeal of any Law.



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TO THE

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

AS ALTERED TO 1st JULY, 1936,

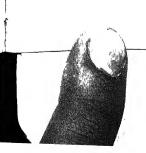
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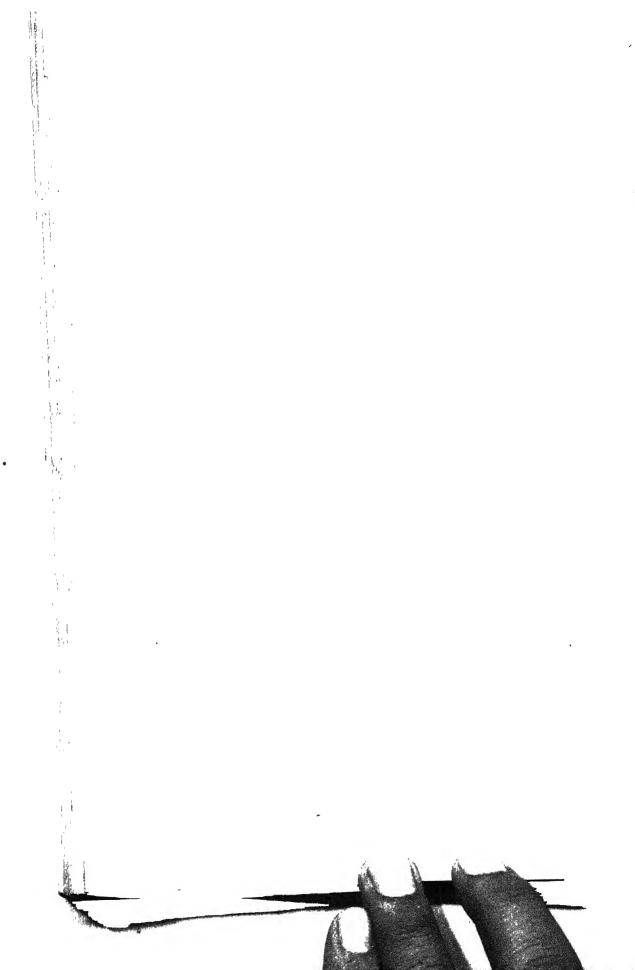
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CONSTITUTION ALTERATION (STATE DEBTS) 1909.

AND

CONSTITUTION ALTERATION (STATE DEBTS) 1928.





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TO THE

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT.

As Altered to 1st July, 1936.

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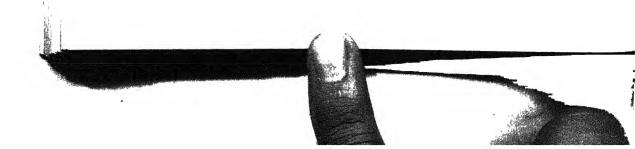
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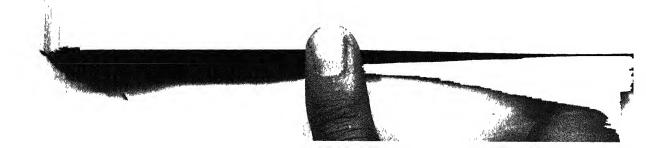
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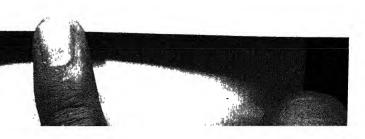


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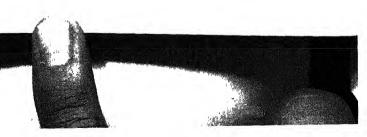


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